

**Claiming rights of LGBT+ populations: What does the universality of  
the concept of human rights promise in the post-pandemic world?**

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## ABSTRACT

*Although the SARS-CoV2 pandemic is not over yet, and studying its devastating implications would require more time to pass, at this particular point in time, I take the ongoing pandemic as the possibility to look at the pre-pandemic discourse of how and where issues pertinent to sexual orientation and gender identity (SOGI) or rights of LGBT+s are framed and navigated, and seek to question the reliance on the universality of the concept of human rights as the main vehicle and interrogate the continuation of such reliance from the post-pandemic perspective. From the activist, practitioner, or researcher's perspective, I am primarily interested in two matters: the origins of the concept itself, on the one hand, and its limitations when it is put to use in the real world, on the other hand.*

*While drawing attention to the foundational premises and important historical factors, I argue that before invoking and insisting on the universality of the concept of human rights, we should be attentive when the concept per se is built in an oppressive context, through the exclusionary process. Deducing from the general interrogation into the foundational premises of the concept, I move from the historical consciousness to the practical consciousness, by which I am looking into the usage of the concept in practice and reflecting on its shortcomings when invoked in real world. I question the feasibility of reliance on it as a primary way of navigating political claims on Sexual Orientation and Gender Identity (SOGI) issues on the global level.*

*By conducting discourse analysis of two interactive dialogues on establishing and later renewing the mandate of the United Nations Independent Expert on SOGI, I demonstrate that any attempt of bringing SOGI issues into international fora is accompanied by inevitable backlash. Groups of countries who oppose SOGI issues frequently frame their opposition in the context of East and West, western imperialism, respect to each State's sovereignty, and regard to cultural and religious particularities. There is also a strong narrative emerging at the United Nations Human Rights Council that the SOGI is a 'Western agenda'.*

*In order to see to what extent that narrative replicated by the opponents corresponds with reality, I contest the 'regime of truth' of it. I demonstrate that irrespective of the resistance of the opposition and the narrative that they replicate, the urge for having a dialogue on SOGI issues on the global level is indeed coming from the global South and East. Nevertheless, whether we like it or not, there is one reality out there, and in that reality, SOGI issues are not welcomed in the Human Rights Council.*

*On the account of the post-pandemic reflection into the use of the universality of the concept of human rights as the main vehicle for claiming rights of LGBT+s, towards countries that are happy with upholding their sodomy laws for instance, I argue that such reliance in the post-pandemic perspective will be inefficient as it promises the same political and ideological backlashes, and thus fewer chances of making substantive steps towards meaningful intercultural dialogue on human rights.*

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## ABBREVIATIONS

**AL** – Arab League

**ARG** – African Regional Group at the United Nations

**CSO** - Civil Society Organization

**IE** – Independent Expert

**LAC** – Latin America Countries

**LGBT** – Lesbian, Gay, Bisexual, Transgender

**NGO** – Non-Governmental Organizations

**OIC** – Organization of Islamic States

**SOGI** – Sexual Orientation and Gender Identity

**The Commissioner** – United Nations’ High Commissioner on Human Rights

**The Council** – United Nations Human Rights Council

**UDHR** – Universal Declaration of Human Rights

**UN** – United Nations

**UPR** – Universal Periodic Review



## INTRODUCTION

History has seen several pandemics emerge and come to an end, and probably the SARS-CoV2 pandemic<sup>1</sup> will not be the last. Nevertheless, the latter has presented an unprecedented challenge for many. The pandemic changed many things. It changed our vocabulary, affected our socio-economic and political lives, and how we perceive the material world through the lens of our unique vulnerabilities. Devastating disruptions caused by the pandemic have “left tens of millions of people at risk of falling into extreme poverty.”<sup>2</sup> It was even said that the pandemic “will forever alter the world order.”<sup>3</sup>

It has also become evident that the pandemic is not just a health crisis, it has turned out to be a human rights crisis as well.<sup>4</sup> Although the pandemic continues to mirror how vulnerable we are no matter in which part of the world we live in, it certainly does not affect all people with the same level of severity and intensity. Its consequences are undoubtedly being felt differently by some depending on their socio-economic status, combined with other personal and contextual particularities. Therefore, it is not a coincidence that since the beginning of the pandemic, many international and community-based local human rights organizations, researchers, scholars and experts have started to draw attention to the disproportionate impact responses to the pandemic

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<sup>1</sup> In the thesis ‘the pandemic’ will be used to refer to the SARS-CoV2 pandemic.

<sup>2</sup> World Health Organization, *Impact of COVID-19 on people's livelihoods, their health and our food systems*, Joint statement by ILO, FAO, IFAD and WHO (13 October 2020) <<https://www.who.int/news/item/13-10-2020-impact-of-covid-19-on-people's-livelihoods-their-health-and-our-food-systems/>> accessed 29/04/2021.

<sup>3</sup> Henry Kissinger, ‘The coronavirus pandemic will forever alter the world order’ *The Wall Street* (3 April 2020) <<https://www.wsj.com/articles/the-coronavirus-pandemic-will-forever-alter-the-world-order-11585953005/>> accessed 29/04/2021.

<sup>4</sup> UN Human Rights Committee. Statement on derogations from the Covenant in connection with the COVID-19 pandemic, UN Doc CCPR/C/128/2 (30 April 2020) <<https://www.ohchr.org/Documents/HRBodies/CCPR/COVIDstatementEN.pdf/>> accessed 25/04/2021.

have had on different populations and the various factors contributing to these communities' vulnerability.<sup>5</sup>

Among others, the pandemic continues to have a disproportionate impact also on marginalized populations.<sup>6</sup> The situation of lesbian, gay, bisexual, intersex, queer and other sexual and gender diverse populations (LGBT+) across the globe is particularly worrying, especially in countries where so-called sodomy laws are still in force.<sup>7</sup> The ongoing pandemic exacerbates the already prevailing poverty amongst and injustice towards LGBT+s.<sup>8</sup> Subsequently, thinking of 68 countries with such [sodomy] laws whose existence per se indicates the fact of social and systemic injustice towards LGBT+s in those geographies in the context of the ongoing pandemic, that number is not mere account of hundreds of thousands, even millions of LGBT+s. Notably, it might tell us something about the new reality created by the pandemic for those who were vulnerable or forced to invisibility (e.g., due to fear of arrest or violence) even prior to it. Admittedly, this new reality provided the impetus for the inquiry of this thesis.

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<sup>5</sup> Office of the United Nations High Commissioner for Human Rights, 'UN Human Rights Treaty Bodies call for human rights approach in fighting COVID-19' (24 March 2020) <<https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25742&LangID=E/>> accessed 10/05/2021; Human Rights Watch, 'Human Rights Dimensions of COVID-19 Response' (19 March 2020) <<https://www.hrw.org/news/2020/03/19/human-rights-dimensions-covid-19-response/>> accessed 11/05/2021; Li Benjamin and et al., 'Vulnerable Populations During the COVID-19 Pandemic' (2020) 50(12) *Psychiatric Annals*, 531–535.

<sup>6</sup> UN Human Rights Council, *Report of the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity*, 75th sess, Agenda Item 72 (b), UN Doc A/75/258 (28 July 2020) para 7.

<sup>7</sup> For countries upholding sodomy-laws see Lucas Ramos Mendos and et al., 'State-Sponsored Homophobia 2020: Global Legislation Overview Update' (*ILGA World* 2020), 113.

<sup>8</sup> Office of the UN High Commissioner for Human Rights, 'COVID-19 and the human rights of LGBTI people' *Topics in Focus* (17 April 2020) <<https://www.ohchr.org/Documents/Issues/LGBT/LGBTIpeople.pdf/>> accessed 13/05/2021.

When thinking about the locations or venues of international advocacy activities, not only for myself but also for many practitioners and human rights activists around the globe, the human rights bodies of the United Nations (UN) can be perceived as a ‘must have’ component of advocacy strategies. It is not surprising that many international LGBT+ organizations, mainly from Western locations, invest in developing various capacity-building projects aiming to bring human rights defenders and activists to international fora, assist them with navigating their issues and claims, and facilitate the process.<sup>9</sup> I admit that for many of us, turning to various UN human rights instruments might be the only platform to seek remedy, contest States’ scant reports, make the international community aware of the realities of our specific communities, and the universality of rights can be seen as the frank concept to defend our claims before our respective states. However, what is the real gain from it besides successfully ‘accomplishing’ the mission of naming and shaming? Does our universality talk lead to a change of heart of states, or does it end with backlash instead?

Furthermore, when thinking about rights and injustice as a practitioner, what we want might also be self-evident. As Wendy Brown has convincingly put it, “rights appear as that which we cannot not want.”<sup>10</sup> Indeed, the essence of what “we cannot not want” might speak for conditions that are enabling the establishment and maintenance of relationships with other beings of choice,

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<sup>9</sup> For instance, ‘*Rainbow Advocacy Program*’ by Swedish organization RFSL implemented together with Sida. The program “is a 13-month-long fellowship for LGBTIQ+ activists from Global South and East to affect change at home through UN advocacy.”

<<https://www.rfsl.se/en/organisation/international/rainbow-advocacy-program/>> accessed 13/05/2021; ‘*UPR Advocacy Weeks implemented*’ by Geneva based ILGA World and Dutch organization COC Nederland. The program assists NGOs and activists around the Globe in their advocacy work such as providing them with an opportunity to “meet with the Geneva representatives of governments from around the world, to share the human rights situation on the ground and what recommendations they would like these countries to make to their own governments.” <<https://ilga.org/upr-advocacy-week-october-2020/>> accessed 13/05/2021.

<sup>10</sup> Wendy Brown, ‘Suffering Rights as Paradoxes’ (2000) 7(2) *Constellations*, 231.

benefiting from entitlements on an equal and non-discriminatory basis. Above all, what we cannot not want is to be free from persecution and imprisonment, be free from torture, cruel, inhuman and any degrading treatment or punishment just because of who we are. However, the way that “want” is constructed or framed, the narratives that are attached, or how that claim is communicated immensely matters, especially when the tension between universalist and relativist schools of thought is present.<sup>11</sup> Consequently, the setting or the platform where that *claim* is engaged has equal importance. It is especially significant in the context of ‘sensitive’ issues, such as sexual orientation and gender identity (SOGI), that are brought to international human rights forums like the UN.

Although the pandemic is not over yet, and studying its devastating implications would require more time to pass, at this particular point in time, I take the ongoing pandemic as the possibility to look at the pre-pandemic discourse of how and where issues pertinent to SOGI or rights of LGBT+s are framed and navigated, and what that continuation would promise in the post-pandemic world. In other words, in this thesis, I seek to question the reliance on the universality of the concept of human rights as a main vehicle for claiming rights of LGBT+s and interrogate the continuation of such reliance from the post-pandemic perspective.

As an activist who has devoted the last decade to speaking up and voicing the issues of LGBT+s at both local and international human rights fora, as a practitioner of rights discourse translating

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<sup>11</sup> See Kelly Kollman and Matthew Weites, ‘The Global Politics of Lesbian, Gay, Bisexual and Transgender Human Rights: An Introduction’ (2009) 15 (1) *Contemporary Politics*, 2, 13; Ryan Thoreson, ‘The Queer Paradox of LGBTI Human Rights’ (2011) *Central European Journal of Social Sciences and Humanities*; Jack Donnelly, ‘Universal Human Rights in Theory and Practice’ (*Cornell University Press* 3rd Ed 2013); Kerri Woods, ‘Human Rights’ (*Red Globe Press* 2014); James Nickel, ‘Human Rights’ (*Stanford Encyclopedia of Philosophy* Summer 2019 Edition);

their experiences into claims, as a consultant on where and how to navigate those claims, and above all, besides being a person with own lived experience, in the process of this research I am interested in the foundation of the universality of the concept of human rights and its place in my work with the aim of the thesis in view. From the researcher's perspective, I am concerned with the efficiency of having universality talks with countries that perceive SOGI as an alien concept, a threat to their religious, customary, cultural, and other particularities, and that do not accept the universality of the concept of human rights or do not want to see SOGI issues within their version of the human rights framework.

With that said, I start with making an inquiry into the universality of the concept of human rights. While drawing the attention to the foundational premises and important historical factors, in Chapter I, I argue that before invoking and insisting on the universality of human rights concept, we should be attentive when the concept *per se* is built in an oppressive context through exclusionary process. Deducing from the general interrogation into the foundational premises of the concept, in Chapter II, I question the feasibility of reliance on it as a primary way of navigating political claims on SOGI issues on the global level. Discourse analysis of interactive dialogues on the establishment and subsequent renewal of the mandate of the UN Independent Expert for protection against violence and discrimination based on Sexual Orientation and Gender Identity leads me to question whether bringing SOGI issues into the political and ideological battlefield makes a pitch for transformative change in the post-pandemic world.

As I demonstrate in Chapter II, groups of countries who oppose SOGI issues frequently frame their opposition in the context of East and West. As a result, there is an emergence of a strong

narrative at the United Nations Human Rights Council (the Council)<sup>12</sup> that the SOGI is a ‘Western agenda’. Consequently, any attempt to initiate a dialogue surrounding SOGI is perceived as ‘a campaign led by some Western countries’. With that said, in Chapter III, I make an inquiry into that narrative. In order to see to what extent that narrative replicated by the opponents corresponds to reality, I examine the list of signatories to the global statement supporting the renewal of the mandate of the UN Independent Expert on SOGI in 2019 and the geographical representation of local and regional Civil Society Organizations (CSO).

In conclusion of this academic inquiry, through probing both the foundation of the concept and, most importantly, its exercise in real world, I answer the research question of this thesis, that is, what does the continuation in reliance on the universality of the concept of human rights as the primary vehicle for claiming rights of LGBT+s promise in the post-pandemic world.

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<sup>12</sup> In this thesis the Council will be used to refer to the United Nations Human Rights Council.

# CHAPTER I: INQUIRY INTO THE UNIVERSALITY OF THE CONCEPT OF HUMAN RIGHTS

The contemporary concept we know today as human rights<sup>13</sup> started its journey when the West and East gave birth to the Universal Declaration of Human Rights (UDHR) or as articulated in its Preamble, when “the peoples of the United Nations have reaffirmed their faith in fundamental human rights [...]”<sup>14</sup> Although I find the latter [human rights] *in se* thought-provoking and absorbing enough to be discussed, in this Chapter, I am interested in the ‘universality’ part of that concept or thought. The choice is purely driven by ethical concerns. As a practitioner who instrumentalizes the framework, I am eager to better know the concept which I use.

When making my first steps into the realm of activism on my 18<sup>th</sup> birthday, the only thing I had in my backpack was the pain and disappointment with my friends, family, society, the state and the religion I was taught to believe in as the cause of that pain. I had a claim or claims towards all of them, but I was in need of a dictionary that would enable me to turn that pain - lived experience - into the subject of my claim. In my search for that dictionary, in Henkin’s articulation, I have been told that “the human rights idea declares that every individual has legitimate claims upon his or her own society for certain freedoms and benefits.” In Peerenboom’s expression, I have been assured that the moral proxy or “the correctness (or objective truth) of moral issues” which makes them universal must be the same anytime and

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<sup>13</sup> Louis Henkin, ‘The Universality of the Concept of Human Rights’ (1989) 506(1) *American Academy of Political and Social Science*, 11.

<sup>14</sup> Universal Declaration of Human Rights, GA Res 217 A (III), UN GAOR, 3rd sess, 183rd plen mtg, UN Doc A/RES/217A (III) (10 December 1948) (‘UDHR, Resolution 2017A (III)’), *preamble*.

anywhere.<sup>15</sup> At the end of that search, I found a dictionary which holds the idea that “all human beings are born free and equal in dignity and rights” and should be honored regardless of time and place.<sup>16</sup>

That ‘dictionary’ was the UDHR. That dictionary entailed a vocabulary, a framework that could help to translate my lived experience into a language that is spoken by many. Therefore, I neither refute the importance of that dictionary, nor disregard the contribution that the framework grounded on the values behind it had on my work as a practitioner. Indeed, conventions, declarations, and resolutions arising from the ideas behind the UDHR, became a practical instrument to construct my claims and navigate them.<sup>17</sup> It also does not look like I am going to find another dictionary and vocabulary as a replacement any time soon.

Yet, I had to be attentive to the shortcomings of that dictionary when relying on its moral authority or invoking the vocabulary it offers. For instance, I used to make a claim with an assumption that the moral basis of my claim ought to have the same meaning to all, and therefore, be respected, honored, valued in the same way, and applied to all without distinction. But in the real world, that assumption turns out to be wrong. There is no universal moral axis adhered to by all. For instance, while writing this thesis, people in 68 countries can be persecuted, imprisoned, and even subjected to the death penalty at any moment, just because they are different; because their non-heterosexual and non-heteronormative existence is seen as a

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<sup>15</sup> Randall Peerenboom, ‘Beyond Universalism and Relativism: The Evolving Debates About ‘Values in Asia’.’ (2002) 14(1) *University of California, Los Angeles School of Law*, 12.

<sup>16</sup> UDHR, *Resolution 2017A (III)*, art. 1.

<sup>17</sup> At this point, it is important to note that throughout the remaining part of this paper, ‘dictionary’ will be used to refer to UDHR and conventions, declarations, resolutions and other international instruments that are grounded on values and principles behind it.



threat. As Donnelly defines, they “have been identified by dominant social groups as somehow less than fully human, and thus not entitled to the same rights as “normal” people, “the rest of us.”<sup>18</sup> Then why invoke the dictionary to which most of “the rest of us” does not have access to and why insist on its universality if not everyone can simply benefit from the moral authority it has established?

One might say that the problem is not with the dictionary itself but with those who resist adhering to the constitutive values it is grounded upon. In this regard, as I illustrate in Chapter II of such backlashes, I certainly do not neglect the ideological and political resistance against the moral authority of that dictionary when invoked. I am also aware of various narratives that are consciously replicated by opposing forces whose validity (of the most prominent of them) I will interrogate and discuss in Chapter III. Yet, my interrogation in both cases occurs in relation to concrete examples when the substance of that dictionary is invoked, and the scope of moral authority that it challenges is questioned. But what about the dictionary itself, its origins?

I use the vocabulary it offers as the main vehicle to frame my claim. I cherish the principles and values on which it anchors when I navigate that claim, but I have never given a thought to question the origin of the dictionary itself. As a practitioner, I have never been keen to ask, “When the attempt made to found a global moral order, was that process itself guided by the same values that it promotes? Who was there and with what intention(s)? Who was not part of the drafting process of declaring the universal moral order and for what reason(s)?” By taking these questions as the lead, the inquiry that I make in the section below and the discussion that

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<sup>18</sup> Jack Donnelly, ‘Universal Human Rights in Theory and Practice’ (*Cornell University Press* 3rd Ed 2013); Kerri Woods, ‘Human Rights’ (*Red Globe Press* 2014), 278.

comes afterwards should be perceived as an ethical concern of a practitioner towards the tool, language, and vehicle o<sup>19</sup>uses to frame and navigate o's claims. Besides, it should not be seen as a mere mathematical calculation. For instance, looking at the number of countries involved in the negotiation process of the declaration and their geographical representation would tell something about the big picture in its simplicity which I illustrate and later discuss in this Chapter.

### ***1.1 Result of a few***

As Woolsey articulates, “a nation is an organized community within a certain territory; or in other words, there must be a place where its sole sovereignty is exercised.”<sup>20</sup> If adhering to Woolsey's definition on sovereign nations, when looked at the number of nations that had the sole sovereignty to organize themselves within a certain territory at that time, the obvious takeaway point would be that the UDHR is a result of a ‘few’, as at that time not all nations, thus cultures, in contrast to the drafters of the UDHR, had the chance to bring their [diverse] perspectives into the process of building a global moral authority. Echoing Kéba M'baye, the original drafter of the African Charter on Human and Peoples' Rights, “it cannot be denied that

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<sup>19</sup> “O” [o] that I refer to here as a personal pronoun is one of the fascinating features of the spoken language of the country that I am originally coming from. In Azerbaijani, there is no gender-specific pronoun which is a common feature of all Turkic languages. “This means that the word for ‘he’ or ‘she’ or even ‘it’ is simply o” (Andrew H. Siegel, ‘The Essentials of Azerbaijani: An Introductory Course’ (Year: N/A), 9). Generally speaking, I do not identify myself as “he”, and one could ask why then not to use the pronoun “they” rather than making it a bit complicated to follow. Although in this paper I use “he” or “she” when referring to other authors for the reason of following academic paper referencing requirements, I chose to refer to myself as to how it would be done in my native language.

<sup>20</sup> Theodore D. Woolsey, ‘Introduction to the Study of International Law, Designed as an Aid in Teaching, and in Historical Studies’ (Scribner 1864), 77.

in 1948 only three states from the African continent were in the United Nations. and that their participation in the development of the various rules was nil.”<sup>21</sup>

Indeed, when looking at country profiles of some drafting members that attempted to codify universal moral code of rights, Africa as an entire continent still was resembling a big pie shared between colonial members of that time’s united nations. Throughout the years after the adoption of the UDHR, 20 countries gained independence from British and 20 from French colonizers. Besides, the collapse of the Union of Soviet Socialist Republics (USSR) gave birth to 13 countries, reshaping the nations’ map from Eastern Europe to Central Asia. Even thinking of today’s de facto successor of the USSR, the Russian Federation itself consists of 21 Republics, each having diverse cultural particularities.<sup>22</sup>

## ***1.2 Result of political and ideological negotiations***

In light of the first point, the second would be that the UDHR resulted from a political compromise between ideological extremes rather than transcultural dialogue on universal moral order. As many scholars have referred to this factor, the drafting process of the declaration and later negotiating of what is drafted by the ‘few’, also was a battleground between ideologies

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<sup>21</sup> Translated from French: “ ‘on ne peut pas nier le fait que, en 1948, trois Etats seulement du continent africain étaient à l’O.N.U. et que leur participation à l’élaboration des différentes règles a été nulle.’ ” Albert Verdoodt, ‘Naissance et signification de la déclaration universelle des droits de l’homme’ (Louvain: Editions Nauwelaerts 1964), 61 referenced in Carlos I. Fuentes et al., ‘E Pluribus Unum—Bhinneka Tunggal Ika? Universal Human Rights and the Fragmentation of International Law’ in René Provost and Colleen Sheppard (eds), *Dialogues on Human Rights and Legal Pluralism* (Springer 2012), 43.

<sup>22</sup> Washington Post, ‘Country Guide: Russia’ <<https://www.washingtonpost.com/wp-srv/world/countries/russia.html/>> accessed 16/04/2021.

which I refer to as socialism/communism on the one side and capitalism/democracy on the other side. For instance, during the drafting process, states from the Eastern bloc, which can be comprehended as the ones making up the socialist/communist front, “complained” about the influence of “Western ideology” (in singular) on UDHR’s foundation.<sup>23</sup> In this example, it would not be incorrect to infer that the ‘complaint’ is directed to the capitalist/democratic front, which by large, did comprise states from the Western bloc.

Being at different ideological ends also affected the stance of some of the drafting states towards criticism coming from the opposition. In the example on the voting behavior of Canada, it can be judged that not the substance of the criticism, but who made it was the deciding factor in the interaction between states. Yes, at the end of the day on the 10th of December 1948, Canada as it was then cast ‘yes’ for the UDHR, thus history records Canada amongst the good ones who favored the universal moral order. However, that record does not speak much more about the nature of that ‘yes’, that is, as Carlos articulates, that “ ‘the government did not relish the company in which it found itself’ (referring mainly to the fact that abstaining States were part of the communist bloc).”<sup>24</sup> In another context, which still continues to prevail in the contemporary rights discourse, the moral authority of the UDHR was the target of criticism grounded on cultural particularities. For instance, for Saudi Arabia, “UDHR reflected Western culture and was ‘at variance with patterns of culture of Eastern States’ ”.<sup>25</sup>

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<sup>23</sup> Carlos I. Fuentes et al., ‘E Pluribus Unum–Bhinneka Tunggal Ika? Universal Human Rights and the Fragmentation of International Law’ in René Provost and Colleen Sheppard (eds), *Dialogues on Human Rights and Legal Pluralism* (Springer 2012), 42.

<sup>24</sup> *Ibid.* 43.

<sup>25</sup> *Ibid.*

In light of these, it is appropriate to argue that the UDHR was the result of some ‘few’, in contrast to today’s ‘more’. As noted by the former Prime Minister of Malaysia, “in the intervening decades, the membership of the organization (United Nations) has more than tripled, with the diversity of views represented undergoing a similar expansion.”<sup>26</sup> Irrespective of Mr. Mahathir’s real incentive when he made that assertion, whether he contested the universal application of rights or made an honest call upon for the revival of moral order the UDHR stands for, there is also truth in his words.

When taking the post-colonial perspective into account, not to mention the expansion in nations’ geopolitical map, indeed the founding process of the UDHR tells something about the exclusion, political negotiations, and tension between ideological extremes. Although the interrogation is limited to discussing one matter, that is, to look at the foundational premises of the UDHR and discuss historical factors surrounding the process, another thought-provoking question in light of the reference made above would be whether rights, morally or ethically thinking, can be subjected to political negotiations in the first place.

Consequently, I would interpret the attempt of some ‘few’ of constructing a unified culture, and insistence on their unrelatedness to given place and time as an attempt, as Mutua perfectly articulates, “to displace the local culture with the ‘universal’ culture of human rights.”<sup>27</sup> One might say that almost every country today is a party to various UN conventions, and many of

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<sup>26</sup> Karin Mickelson, ‘How Universal Is the Universal Declaration’ (1998) 47 in *Celebrating 50 Years of the Universal Declaration of Human Rights* (*University of New Brunswick Law Journal*), 21.

<sup>27</sup> Mutua Makau, ‘Savages, Victims, and Saviors: The Metaphor of Human Rights’ (2001) 42(1) *Harvard International Law Journal*, 221.

them are incorporated into domestic legal frameworks. However, as Henkin articulates, maybe that is the hypocrisy behind the textualized universal human rights.<sup>28</sup>

### **1.3 Discussion**

At the outset, I should emphasize that this general inquiry has no bearing on the extreme relativists who see culture as “the sole source of the validity of a moral right or rule”<sup>29</sup> or those who abuse the rights discourse in their political football.<sup>30</sup> Nevertheless, whether they are conservative relativists seeking to sweep their dirt under the rug of sovereignty or the honest critics attempting to decolonize the rights discourse, they might have got an intriguing point one cannot overlook. With that said, it would be a mistake to disregard the historical context, in which that time’s West and East came together to codify all humanity’s rights in the UDHR.

After all, it would not be that difficult to anticipate what it means for a person to live without being entitled to any rights and in what atrocities such absence could result. When World War II (WWII) gave birth to the “lingua franca of global moral thought,”<sup>31</sup> the series of rights that are enlisted in the UDHR, it was regarded as a precursor for ‘just’ societies in the post-WWII world,

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<sup>28</sup> Louis Henkin, ‘The Universality of the Concept of Human Rights’ (1989) 506(1) *American Academy of Political and Social Science*, 13.

<sup>29</sup> Jack Donnelly, ‘Cultural Relativism and Universal Human Rights’ (1984) 6(4) *Human Rights Quarterly*, 400.

<sup>30</sup> See Eric Heinze, ‘The Use and Abuse of Human Rights Discourse: A Legitimacy Test for NGOs, IGOs and Governments’ (2006) *bepress Legal Series, Working Paper 1798*; Anne K. Jahren, ‘Use and Abuse of Human Rights Discourse’ (E-International Relations 2013).

<sup>31</sup> Jorge Contesse, ‘Resisting the Inter-American Human Rights System’ (2019) 44(2) *Yale Journal of International Law*. 183.

with an assumption that they are all shared across nations and cultures.<sup>32</sup> In other words, UDHR established a precondition(s) for the image of a ‘just’ world in its ‘universal’ meaning, in which recognition of the inherent dignity and inalienability of rights of all members of the human family was seen as “the foundation of freedom, justice and peace in the world.”<sup>33</sup>

However, on the one hand, such abstractionist framing fails to consider lived experiences arising out of not-that-universal socio-economic and mutable contextual particularities. This statement should not be comprehended as a manifestation of siding with the relativist front; however, I endorse Donnelly’s approach where he says, “human nature is itself in some measure culturally relative.”<sup>34</sup> On the other hand, it walks side-by-side with inevitable political backlash as the values behind the concept are regarded as Western heritage.<sup>35</sup>

At this point, not only in the context of this discussion, but generally speaking, it is essential to acknowledge the geographical specificity of the UDHR. We can agree that its creation is linked with WWII and Europe, and atrocities some specific groups such as Jews or homosexuals endured, so notably that should tell us something about a perception of history and objectives or reasons for setting up the United Nations - Never again! At one point, it may be irrelevant as to how many states from the African continent were part of the drafting process, but we can agree that they were fewer than five<sup>36</sup>, although we now have 54 sovereign states in the continent.

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<sup>32</sup> Marek Hrubec, ‘Preconditions of an Intercultural Dialogue on Human Rights’ (2010) 55(1) *Veritas (Porto Alegre)*, 200.

<sup>33</sup> UDHR, *Resolution 2017A (III)*, preamble.

<sup>34</sup> Jack Donnelly, ‘Cultural Relativism and Universal Human Rights’ (1984) 6(4) *Human Rights Quarterly*, 402–403.

<sup>35</sup> Amartya Sen, ‘Human Rights and Asian Values’ (1997) Morgenthau Memorial Lecture Series, *Carnegie Council on Ethics and International Affairs*, 10.

<sup>36</sup> Egypt, Ethiopia, Liberia, South Africa

But still, there is something fundamentally problematic about the construction of this kind of modern human rights framework, a project which originated from the atrocities of the war, thus making the project geographically specific, and claiming its universality by neglecting the fact that it was predominantly Western-Northern countries who ‘represented’ all nations, and cultures as well. Recalling the preamble of the UDHR, if everybody is born equal and free, free being the operative word here, then how is it that a few states ultimately speak on behalf of all humankind? In what capacity is this happening if we are told that the declaration is universal? In order to explain my point, I would like to refer to the Security Council of the United Nations and also discuss the combination of permanent members of the Security Council and how they got to be the permanent members. I believe that discussion, in relation to the context of this general interrogation, may tell more about the foundational problems surrounding UDHR and my cautiousness.

The UN’s Security Council consists of five permanent members: France, Russian Federation, the United Kingdom, the United States, and China.<sup>37</sup> Bearing in mind that China joined the club later, what would be the significant commonality among the first four countries? One obviously would be that they are all economic superpowers. Then why Germany, a big industrial State, or Japan, another economically strong country, are not in the club? What did Germany and Japan do wrong, or what did they fail to do that the others, the USA, China, Russia, France and the United Kingdom, managed to? The obvious answer is they were the losers, and losers do not get to draft instruments. It sounds childish, but you win, you play, you lose, you do not. When you

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<sup>37</sup> Members of the United Nations Security Council. <<https://www.un.org/securitycouncil/content/current-members/>>



win, you set the norms, and if you lose, you follow the norms set by the winner. If you pick a fight, and you lose, then you have to follow the rules of the person who won.

But this still does not tell us why there were only few African States in the drafting process. Because many of them fought on the side of the imperial forces against Hitler and the Axis. In regard to the latter, I would like to refer to a story from real life told by my Professor from Malawi, Fareda Banda:

*My father tells me the story of being in high school and being recruited. They tried to recruit him to join what they called the King's African Rifles. He was very keen, because apparently, they had a very handsome uniform, and he said it was a very smart uniform. My grandfather refused to put a fingerprint on the form to allow my father to go because of the sell that my father was given. The hard sell was that "we need to fight this man called Hitler because he has called Africans baboons, and we must go and defend King George (the British King)." Nyasaland (part of Malawi) was a British colony. My grandfather, who didn't go to school, said to my father: Well, hang on. Why are you fighting for somebody else's sovereignty when you yourself don't have any of your own?<sup>38</sup>*

So, this idea that the winner takes all and therefore gets to draft the norms does not still explain how the Africans (not forgetting the Arabs and the Asians) who fought these wars for Imperial armies themselves did not reap the rewards of having been part of the winner. Yes, the victors get to set up to be the permanent five of the Security Council. Yes, the victors get to be the ones who build the norms by which we're going to be abiding. Yet one would think that winners take

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<sup>38</sup> Fareda Banda, 'African Migration, Human Rights and Literature' (Oxford: Hart Publishing 2020), 76, footnote 101.

along with them those who help them on their journey, those who were indispensable to secure the victory. But they did not.

Notably, the beneficiaries were the ones who lived in the United Kingdom, the Australians, Canadians and New Zealanders. But what unites Canada, Australia, New Zealand, but neither other territories which had similar colonial legacies? Can we consider that maybe this is because they were not ‘white’? Assumably one may point out to South Africa as one of the drafters in order to contest the latter question. However, it should not be forgotten what was going on in South Africa in 1948. That was the formal legalization of apartheid. It is slightly ironic that one of the few countries that participated in the drafting of the human rights instrument was in the process of setting up a racially discriminatory system.

The call I make here is that if we are to start talking about human rights from 1948, then we should be mindful of racialized views of human rights. We should be conscious about the other side of the coin, that is, Western-centric, white, corrupt, and inaccurate view of human rights as it leaves out the histories of other people. No matter how hard we as practitioners may try to reconstruct the language of the human rights concept and make it race-, sex-, gender-blind, the irony behind the concept we invoke might be in its exclusion as it has left out the majority of the world’s people, and the majority of the world’s people are not white. They are people of color and peoples of color. Notably, it also tells us something about power.

As stated at the beginning of this Chapter, the reason for this inquiry was to be critical about the dictionary that I have been adhering to for almost a decade. This concern of ethics led me to

commence the general inquiry of this thesis by turning first to the origins of that dictionary. With regard to the discussion above, independently from the title of the declaration, which speaks for the universality of any rights enshrined in it, my conclusion is that the dictionary was written in a solidly exclusionary context. But that historical context should not be oversimplified as a mere mathematical calculation. Besides thinking about who was there during the time the dictionary was set, that calculation also necessitates a critical reflection on who was not there and for what reason.

One might argue that it does not matter how many states were involved in founding that dictionary, and what is important are the values that the dictionary stands for. It provides the oppressed with generally spoken language to frame his/her/their issues and claims. It gives the oppressed an international framework to navigate them. As a beneficiary of that dictionary myself, I do share most of the views which it stands for, but I also feel utterly uncomfortable when looking at the background context of that dictionary. For instance, knowing that those who were colonized also were told about universal human rights, but at the same time were denied to be subject to those rights by colonial powers of that time. Those powers on the other hand were privileged to be amongst the drafters of these rights. This illustration itself makes me feel cautious on insisting on the universality of that dictionary. As emphasized in the introduction, this cautiousness is a matter of ethical concern.

My point here is not about disputing the substance of the UDHR. The inspiration behind the universal application of rights is admirable. But it does not mean that such admiration should hinder an interrogation of that concept, especially when it is being used as a vehicle to address

issues of “the rest of us” which are deemed sensitive. In other words, if the foundation of the concept whose moral authority became the bedrock of various human rights instruments is itself connoted with oppression and exclusion, then such consciousness should invite us to be attentive towards that concept, using a dictionary that became the main vehicle for both formulating and navigating the claims of the oppressed - “the rest of us” - whether in local or in international fora.

There is nothing wrong with standing up for the world that this dictionary promises. It also provides “the rest of us” with a vocabulary to translate our pain, lived experiences into a language spoken by the most and navigate our claims where that language is used. “[sic] There is no doubt that, after decolonization and the civil rights movement ended formal empire and racism,” as Samuel Moyn emphasizes in his book called ‘The Last Utopia: Human Rights in History’, “the language of human rights provided a potent antitotalitarian weapon.”<sup>39</sup> However, it is also equally important to be cautious, self-critical, and not fall for the moral utopia, the perfect world that it mirrors, and be critical towards the language we use. Departing from the same aspiration, which was an account of interrogation that I have started in this Chapter, in the following Chapter, I move from the ethical consciousness of the concept to the practical consciousness of it, by which I am looking into the concept when invoked or relied on in practice and reflecting on its downsides when invoked in real world.

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<sup>39</sup> Samuel Moyn, ‘The Last Utopia: Human Rights in History’ (*Harvard University Press* 2010), 217.

## CHAPTER II - PRE-PANDEMIC PERSPECTIVE: HUMAN RIGHTS

### COUNCIL AND SOGI

In light of the ongoing division and polarization among the international community on whether some human rights are universal or not or even deserve to be called a right as such, the obvious result of attempts to initiate and lead discussions in this context is an unavoidable political conflict - backlash. In this regard, some of them may be regarded as artificial conflicts whose sole purpose might be to legitimize particular power structures and other interests.<sup>40</sup> Nevertheless, should those types of conflicts be taken less seriously because they are just artificial? Notably, on some occasions, those conflicts turn into severe and real confrontations between (Eastern and Western) societies. It is especially true when issues pertinent to SOGI and claims of LGBT+s are being advocated for through the international fora.

As it was emphasized in the introduction, this thesis is an invitation not to denounce but to critically consider the limitation of the reliance on the universality human rights framework when deciding to bring issues and claims of LGBT+s into deeply polarized international fora. It is a possibility to think of finding a new vehicle(s) that would not cause fear of replacing the local culture with the universal. As it will be discussed below, such reliance when engaging with States that do not see SOGI issues as part of that framework and perceive it as a threat to their particularities will predictably lead to the same old backlash, thus offering fewer chances for achieving meaningful intercultural dialogue on human rights.

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<sup>40</sup> Marek Hrubec, 'Preconditions of an Intercultural Dialogue on Human Rights' (2010) 55(1) *Veritas (Porto Alegre)*, 185; Rosa Freedman, 'New Mechanisms of the UN Human Rights Council' (2011) 29(3) *Netherlands Quarterly of Human Rights*, 289.

In order to demonstrate that, the section below conducts an analysis of two historical dialogues at the Council, namely, interactive dialogues on the establishment and later the renewal of the mandate of the UN Independent Expert on SOGI.

## ***II.1 SOGI Issues at the Human Rights Council***

In 2016, following the draft resolution initiated by Latin American countries<sup>41</sup> and ambient political mobilization, the Council established a mandate at United Nations that aimed to hear the voices the LGBT+s globally better.<sup>42</sup> The mandate called the UN Independent Expert on SOGI. As the mandate's function was limited to three years, albeit with strong resistance, the mandate was renewed in 2019.<sup>43</sup> Expectedly, it was not an easy process. In 2016 and in 2019, there was a confrontation with a significant number of States, particularly members of the Organization of Islamic Cooperation (OIC), Arab League (AL) and African Regional Group (ARG). The

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<sup>41</sup> Human Rights Council, GA Draft Res. 32/2/Rev.1, UN GAOR, 32nd session, Agenda Item 3, UN Doc A/HRC/32/L.2/Rev.1 (28 June 2016) ('Human Rights Council (2016). *UN Doc A/HRC/32/L.2/Rev.1*')

<sup>42</sup> Human Rights Council, GA Res. 32/2, UN GAOR, 32nd session, 2nd plen mtg, Agenda Item 3, UN Doc A/HRC/RES/32/2 (15 July 2016) ('Human Rights Council (2016). *UN Doc A/HRC/RES/32/2*'); also See Human Rights Watch, 'UN Makes History on Sexual Orientation, Gender Identity' (30 June 2016) <<https://www.hrw.org/news/2016/06/30/un-makes-history-sexual-orientation-gender-identity/>> accessed 15/02/2021.

<sup>43</sup> Human Rights Council. GA Res. 41/18, UN GAOR, 41st session, 18th plen mtg, Agenda Item 3, UN Doc A/HRC/RES/41/18 (12 July 2019) ('Human Rights Council (2019). *UN Doc A/HRC/RES/41/18*'); also See International Service for Human Rights, 'LGBT Rights | How the #RenewIESOGI campaign was won' (24 October 2019) <<https://www.ishr.ch/news/lgbt-rights-how-renewiesogi-campaign-was-won/>> accessed 16/02/2021.

discussion below conducts detailed observations of that discourse, in particular, interventions made by countries that are upholding sodomy-laws.<sup>44</sup>

It is also noteworthy to mention that during the research, I came across with a compilation (report) produced by ARC International, International Lesbian and Gay Association (ILGA World) and International Service for Human Rights (ISHR).<sup>45</sup> However, those reports encompass key statements, documents and the result of both resolutions, and do not include in-depth critical analysis of those dialogues. With that said, the following analysis can be perceived as a contribution to fill that gap by critically analyzing and interpreting both interactive dialogues. By doing so, I unpack the reality of how the States perceive and react accordingly to issues concerned with SOGI when they are brought to the international fora.

### ***II.1.1 Data and Method of the Analysis***

There are three main reasons why conducting discourse analysis into interactive dialogues on both the establishment and subsequent renewal of the mandate of the UN Independent Expert on SOGI is relevant for answering the research question of this thesis. The first reason is their scope and level of participation of both the state and non-state actors at the international level concerning SOGI issues or rights of LGBT+s. Interrelatedly, the second reason is the credibility of the chosen venue. Lastly, as will be demonstrated later in this chapter, both interactive

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<sup>44</sup> For countries upholding sodomy laws *see* Lucas Ramos Mendos and et al., ‘State-Sponsored Homophobia 2020: Global Legislation Overview Update (*ILGA World* 2020), 113.

<sup>45</sup> *See* [Compilations] in Bibliography.

dialogues provide quantitative and qualitative data for thematic analysis in order to answer the research question of this thesis.

Data was gathered from a publicly available webcast of the 2016 and 2019 interactive dialogues and voting procedures at the Council and analyzed by listening to audio statements in their entirety.<sup>46</sup> In total, there have been 123 interventions<sup>47</sup> made by 42 states.<sup>48</sup> 90 of those interventions have been made by the proponents of the mandate (25 states) and, accordingly, 33 of them by the opponents (17 states). The length of both interactive dialogues was 4.85 hours in total.<sup>49</sup> All interventions have been made on the state capacity. Some interventions have been made in English. In cases where the state delegates use their native language, the intervention was simultaneously translated.

In this analysis, I only focus on the interventions made by the opposing countries. After thoroughly evaluating all the arguments delegates put forward against the mandate, I observed three main sets of frames, each with two sub-frames, to which the opponents of the resolution have resorted in their interventions: (a) relativity/state sovereignty; (b) consensus/contentious; (c) coercion.

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<sup>46</sup> See [*UN Webcasts*] in Bibliography.

<sup>47</sup> 81 in 2016 and 42 in 2019.

<sup>48</sup> 29 in 2016 and 22 in 2019. See Annex I and II for the list of states and their speaking indexes.

<sup>49</sup> 3.35 hours in 2016 and 1.50 hours in 2019.



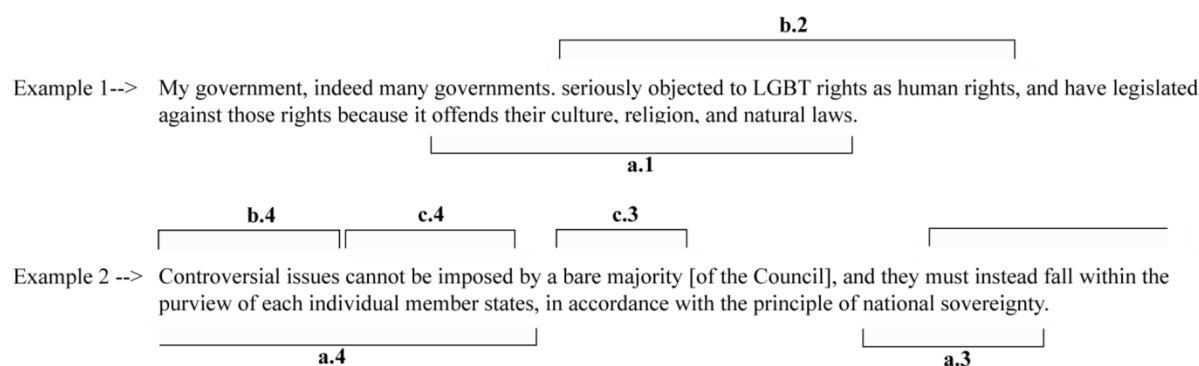
**Figure 1:** Frames used by the opponents at the Human Rights Council during the 2016 and 2019 interactive dialogues

1. <i>historical, cultural, social, political, religious particularities</i> 2. <i>diversity</i>	1. <i>not agreed universal consensus</i> 2. <i>has no basis in international human rights law</i> 3. <i>an attempt to make human rights agenda controversial</i>	1. <i>political interests</i> 2. <i>Western LGBT agenda</i> 3. <i>polarization</i>
3. <i>sovereignty</i> 4. <i>non-intervention</i>	4. <i>controversial topic</i> 5. <i>undefined concept or notion</i> 6. <i>controversial resolution</i> 7. <i>controversial initiative</i>	4. <i>imposition of particular set of values and lifestyles on others</i> 5. <i>imposition of certain so-called human rights concepts or ideas</i>
<b>(a) relativity/state sovereignty</b>	<b>(b) consensus/contentious</b>	<b>(c) coercion</b>

Source: Developed by author

As illustrated in Figure 2 below, the analysis is based on scrutinizing each intervention by the wording, phrases, and sentences that reflect on or relate to the context of the above-mentioned frames. For an intervention to be coded as (a), (b) or (c), the intervener had to refer to one of the indicators prescribed under the respective sub-frame shown in Figure 1.

**Figure 2:** Examples of how each intervention of state delegates has been coded



Source: Developed by author

After the coding of all interventions in the way as illustrated above, data is analyzed and interpreted in two ways: (i) reference to a particular frame in light of the total number of interventions made by opponents; (ii) reference to a particular frame in light of the total number of assertions that have been made during those interventions. In other words, the analysis has been made by asking the following two questions:

1. In how many interventions was the frame itself (in singular) present?
2. How many times was the frame itself, in the form of sub-frames, present in each intervention?

To illustrate by giving an example, let us imagine that Bangladesh had referred to frame (a), which is the relativity/state sovereignty, four times in one single intervention. Concerning the first question, I will count frame (a) as 1 time, and in relation to the second, I will count frame (a) as 4 times.

The reason for choosing this method of analysis is that it helps first to grasp the picture of how states generally perceive SOGI issues and under what frame they construct arguments. Interrelatedly, unpacking the rhetoric used by the opponents helps to map the hierarchy of their arguments. For instance, looking at the frequency or density in reference to those frames, thus choosing the most prevalent ones, indeed can be necessary for building strategies on how to counter those arguments in the future. Identifying the frames is critical as each of them also reinforces certain narratives that may not reflect reality and require to be interrogated.<sup>50</sup>

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<sup>50</sup> For instance, one of such narratives that do not reflect reality will be the subject of interrogation in the next Chapter.

Additionally, I occasionally include extracted phrases expressed by original interveners for two purposes. After participating in the debate in 2019, my intention in enabling close-reading of the used language is to bring to readers the atmosphere of the Council in which the debates on SOGI have taken place. Secondly, exposing readers to the opponents' rhetoric will help readers relate to this thesis' call, which will be discussed after elaborating on the findings, that the reliance on the universality idea of human rights concept alone in the post-pandemic world would be a cynical continuation of political and ideological backlashes.

### ***II.1.2 Findings***

During both interactive dialogues, the opposition front has made 33 interventions.<sup>51</sup> After interpreting the oral content of the interventions in the way as explained above in the methodology section, it has been observed that the opponents have 159 times altogether made reference to the sub-frames presented in Figure 1. By looking at the framing quantity, amongst the main set of frames, arguments relating to the recognition and honoring historical, political, socio-economic background, cultural and religious differences, and demand for respecting the sovereignty of each state was the most encountered assertion amongst all invoked frames - with a total of 58 times.

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<sup>51</sup> Maybe look at how many interventions were in total.

**Table 1:** Reference to a particular frame in light of the total number of assertions and in light of the total number of interventions

<b>Frames</b>	<i>in light of the total number of assertions in numbers (N=159)</i>	<i>in light of the total number of interventions in percentage (N=33)</i>
<b>(a) relativity/state sovereignty</b>	58	72% (24)
<b>(b) consensus/contentious</b>	56	87% (29)
<b>(c) coercion</b>	45	66% (22)

Source: Developed by author

However, the lack of universal consensus on SOGI as a concept was the primary concern of most of the states during the debate. As seen in Table 1, in 29 out of 33 interventions (87%), opposing states complained about bringing issues into the Council, which are, as they alleged, contentious in nature.<sup>52</sup> Compared to both frames, in two-thirds of interventions, opponents have referred to the “coercion” frame 45 times in their speech, and those interventions included claims such as ‘imposition of values that are alien to many societies’ or ‘imposition of agenda played out in the West’.

### ***II.1.2.1 Frame: Relativity/State Sovereignty***

In order for the intervention to be coded under the *relativity/state sovereignty* frame, it had to subsume sub-frames (indicative words) that are presented in Figure 1.

<sup>52</sup> Except UAE and Bangladesh.

When framing SOGI issues as a threat to those sensitivities or emphasizing non-intervention principle, opposing states have referred to cultural and religious particularities to their defense. For many delegates, accepting SOGI as a right meant compromising their values, customs, cultures and religious beliefs.<sup>53</sup> For instance, the representative of Nigeria has stressed that not only his government, “indeed many governments, seriously object to LGBT rights as human rights and have legislated against those rights because it offends their culture, religion and natural laws.”<sup>54</sup>

**Table 2:** Frequency of resorting to relativity/state sovereignty frame

<i>Sub-frames</i>	<i>reference to a sub-frame as % of all assertions (N=159)</i>	<i>% of reference to a sub-frame in light of all interventions (N=33)</i>
1. <i>historical, cultural, social, political, religious particularities</i> 2. <i>diversity</i>	28% (45)	60% (20)
3. <i>sovereignty</i> 4. <i>non-intervention</i>	8% (13)	36% (12)

Source: Developed by author

As can be seen in Table 2, in one-third of all interventions, opponents framed the discussion on SOGI issues as an act of interference into an area that must instead be left to States: “controversial issues cannot be imposed by a bare majority [of the Council] and they must

<sup>53</sup> Qatar (2016), 00:43:50 (*English interpretation*)

<sup>54</sup> Nigeria (2016), 03:07:19

instead fall within the purview of each individual member States, in accordance with the principle of national sovereignty.”<sup>55</sup>

### ***II.1.2.2 Frame: Consensus/Contentious***

In order for the intervention to be coded under the consensus/contentious frame, it had to subsume sub-frames (indicative words) that are presented in Figure 1.

While being the most invoked frame, in 87% of interventions (see Table 1), disagreement was around whether it is legitimate to discuss SOGI issues under the umbrella of universal human rights, an issue which not only lacks recognition of diverse societies but is also ill-grounded in international law. As illustrated in Table 2, in about three-fourths of total interventions for the two debates combined, opponents particularly emphasized that SOGI has no foundation in international human rights law and therefore attempt to do so contradicts the foundational spirit of the UN: “The resolution before us is one that is divisive and contrary to the spirit of consensual agreement which is the foundation upon which this organization sets global norms.”<sup>56</sup>

It is for this reason that, as the opponents frequently claimed, the discussion around a “controversial, undefined notion” that lacks universal consensus *per se* undermines the universality of the concept of human rights with respect to the internationally agreed human rights framework.<sup>57</sup>

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<sup>55</sup> Nigeria (2016), 00:13:45

<sup>56</sup> Maldives (2016), 00:42:09

<sup>57</sup> See. Algeria (2016), 03:21:42; Namibia (2016), 03:28:02; Nigeria (2019), 00:18:22; Egypt (2019), 00:20:14

Notably, the universality of human rights as a concept itself was often used as a shield in the opponents' rhetoric. It was even referred to, when Saudi Arabia attempted to block the debate in its entirety, that is invoking Rule 116 of the rule of procedures: “[sic] Adjournment of the consideration is a legitimate method under the rules of procedures and we considered it also as a substantive message to register that this draft is not welcome in Room XX [the Council]. Because it's contrary to International Human Rights laws and reflects deep disregard to the universality of human rights.”<sup>58</sup>

**Table 3:** Frequency of resorting to consensus/contentious frame

<i>Sub-frames</i>	<i>reference to a sub-frame as % of all assertions (N=159)</i>	<i>% of reference to a sub-frame in light of all interventions (N=33)</i>
1. <i>not agreed universal consensus</i> 2. <i>has no basis in international human rights law</i> 3. <i>an attempt to make human rights agenda controversial</i>	23% (37)	75% (25)
4. <i>controversial topic</i> 5. <i>undefined concept or notion</i> 6. <i>controversial resolution</i> 7. <i>controversial initiative</i>	11% (19)	39% (13)

Source: Developed by author

As can be seen in Table 3, in one-third of the interventions, opponents pictured SOGI as a threat to the concept of universality itself. It is not surprising that one of the proposed amendments by Pakistan on behalf of the oppositional front to the resolution SOGI was referred to as a notion

<sup>58</sup> Saudia Arabia (2016), 00:05:01

that undermines the international human rights system and constitutes disregard of the principle of universality.<sup>59</sup>

### ***II.1.2.3 Frame: Coercion***

In order for the intervention to be coded under the *coercion* frame, it had to subsume sub-frames (indicative words) that are presented in Figure 1.

In light of the foregoing findings in above sections, opposing countries took a strong stance by referring to “coercion” arguments 45 times, which makes almost one-third of the entire number of references. As illustrated above in Table 1, in two-thirds of total interventions, discussing controversial issues (referring to SOGI) by neglecting, *inter alia*, cultural and religious particularities of the vast majority of the world’s population was perceived as a political act of some states (referring Western countries) attempting to impose a particular set of values and lifestyle (referring to LGBT agenda) on other societies by using “available platforms to further the political interest and particular policies.”<sup>60</sup> In numerous interventions, SOGI was delineated as an “option or an alternative form of behaviors,” choice of private matter or lifestyle, and its discussion is a destruction from the grand principles of human rights.<sup>61</sup>

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<sup>59</sup> Human Rights Council. GA Res. 41/L.32, UN GAOR, 41st session, Agenda Item 3, UN Doc A/HRC/41/L.32 (10 July 2019)

<sup>60</sup> Pakistan (on behalf of the OIC with the exception of Albania and Tunisia) (2019); 00:09:50

<sup>61</sup> See. Russian Federation (2016), 02:54:12; Algeria (2016), 03:21:42; Pakistan (2019), 01:46:16



**Table 4:** Frequency of resorting to coercion frame

<i>Sub-frames</i>	<i>reference to a sub-frame as % of all assertions (N=159)</i>	<i>% of reference to a sub-frame in light of all interventions (N=33)</i>
1. <i>political interests</i> 2. <i>Western LGBT agenda</i> 3. <i>polarization</i>	16% (26)	51% (17)
4. <i>imposition of particular set of values and lifestyles on others</i> 5. <i>imposition of certain so-called human rights concepts or ideas</i>	11% (19)	54% (18)

Source: Developed by author

As can be spotted in Table 4, in over one-half of interventions, opponents framed the discussion on SOGI [thus the establishment of the mandate] as an ongoing attempt to force other societies to accept concepts and behavioral models that run counter to their beliefs and values; a deliberate intrusion into internal matters of sovereign States: “[...] We are of the view that the particular ideological view of these controversial issues cannot be imposed by a bare majority of the Human Rights Council [...] The nomination of Independent Expert concerns for the same reasons as it will effectively mean that LGBT agenda as it has played out in Western nations will be advanced at the United Nations under the guise of impartiality and expertise.”<sup>62</sup>

Oftentimes, the delegates condemned bringing SOGI issues into the Council and accused those who deliberately polarize the Council while staying blind to differences: “Council should always take a constructive and cooperative approach in the consideration of issues [...] involving different socio-cultural and religious norms and morality [...] always demonstrate the requisite

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<sup>62</sup> Nigeria (2016), 00:13:45

sensitivity to them, and refrain from imposing certain values or norms to others and to those that do not enjoy international consensus.”<sup>63</sup>

Opponents also associated bringing SOGI issues into the Council with an act of hijacking and instrumentalizing the system: “We don’t want the Council to enter into a war between civilizations and religions [...] this draft resolution will lead us to polarization to the vision and dissension.”<sup>64</sup>

## ***II.2 Change in Behavior of Opposing Countries: Universal Periodic Review Records***

In light of the findings presented above, then a simple question arises: Has there been some relaxation since then in the rhetoric of the opponents towards SOGI issues? On this matter, analysis of the 3rd cycle of Universal Periodic Review (UPR) records of OIC, AL and ARG countries can help to answer that question.

As of March 2021, the number of OIC, AL and ARG countries that underwent their third cycle of UPR was 44. When reflecting on recommendations made by other member states of the UN, it is accurate to postulate that for opposing countries, encountering SOGI issues was not limited only to the interactive dialogues of 2016 and 2019 at the Council and continued to be approached on this matter. According to data gathered from the UPR Info Database, by March of 2021, OIC,

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<sup>63</sup> Indonesia (2016), 03:10:55

<sup>64</sup> Morocco (2016), 03:20:40 (*English translation*)

AL and ARG countries have received in total 364 recommendations concerning SOGI.<sup>65</sup> Notably, 337 recommendations of them, which makes 92% of all recommendations, were calling for specific or general actions such as enacting protective policies and amending respective laws, particularly outlawing sodomy laws.

While bearing in mind that States cannot reject recommendations but record them as ‘noted’ if they do not want to support (accept) them,<sup>66</sup> 82% of recommendations related to SOGI (in total 301) were registered as ‘noted’. Notably, together with women’s and children’s rights, SOGI ranked 3rd amongst the recommendations that have been only noted by the receiving countries. In other words, SOGI prevailed to be amongst not unwelcomed issues for OIG, AL and ARG countries under review. If perceiving their interventions at the Council during the 2016 and 2019 interactive dialogues as an indicator of active (verbal) resistance towards SOGI issues, then opting to ‘noted’ in the UPR process can be described as passive (non-verbal) form of manifesting that resistance.

### ***II.3 Discussion***

Restating what is said at the beginning of this chapter, the motivation behind this inquiry is not to denounce the human rights framework in its entirety. Most importantly, it is not about discouraging practitioners, activists, or anyone else from bringing issues into international

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<sup>65</sup> Universal Periodic Review Info Database <<https://cutt.ly/Hx7X3eD/>>

<sup>66</sup> Valentina Carraro, ‘The United Nations Treaty Bodies and Universal Periodic Review: Advancing Human Rights by Preventing Politicization?’ (2017) 39(4) *Human Rights Quarterly* (Johns Hopkins University Press), 963.

human rights fora, such as the Council or other UN human rights bodies, but about questioning their efficiency. Certainly, recognition by the state apparatus might also be necessary, so advocating for that cannot be wrong. However, it should not make up the process itself, but rather be part of it. In other words, my concern is about the danger that derives from bringing SOGI issues into the deeply polarized, thus politicized UN venue(s), thus making the process become an end in itself but not a means to an end, that is achieving dialogue in a less confrontational manner and nature.

It can also be assumed that as a vehicle for advancing SOGI issues, reliance on the universality limb of the human rights concept proved itself useful.<sup>67</sup> For instance, Latin America could be shown as a particular example of expansion in protective laws and policies in this regard.<sup>68</sup> Without undermining the tireless work of human rights defenders and activists, whether globally or locally, but to what extent can that assumption be true? For instance, according to Inter-American Commission, the precarious situation of LGBT+s in Latin America still remains an issue despite the expansion in protective laws and policies regulating SOGI issues.<sup>69</sup> The point is, although reliance on the positive law may lead to success by being recognized by the state apparatus, it unfortunately does not necessarily lead to achieving tangible change, that is, change in society's behavior.

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<sup>67</sup> Dominic McGoldrick, 'The Development and Status of Sexual Orientation Discrimination under International Human Rights Law' (2016) 16(4) *Human Rights Law Review*, 617–647.

<sup>68</sup> Javier Corrales, 'The Expansion of LGBT Rights in Latin America and the Backlash' in Michael J. Bosia, Sandra M. McEvoy and Momin Rahman (eds), *The Oxford Handbook of Global LGBT and Sexual Diversity Politics* (2019), 186.

<sup>69</sup> Inter-American Commission on Human Rights, 'Report on Trans and GenderDiverse Persons and Their Economic, Social, Cultural, and Environmental Rights.' *Special Rapporteurship on Unit Economic, Social, Cultural and Environmental Rights*. OEA/Ser.L/V/II, Doc. 239/20 (7 August 2020) para 1–6; also See Anastasia Moloney, 'LGBT+ Murders at 'Alarming' Levels in Latin America—Study' *Reuters* (8 August 2019) <<https://www.reuters.com/article/us-latam-lgbt-killings-idUSKCN1UY2GM/>> accessed 21/03/2021.

In light of the first issue, which itself requires very sound qualitative, comparative and quantitative study, I am concerned with the efficiency of reliance on the universality idea of human rights concept alone in the post-pandemic world when its end result *per se* is questionable.<sup>70</sup> With that in mind, my call can be perceived as an invitation to reflect on the responsibility of human rights defenders, activists, and other relevant actors (allies) before invoking deeply polarized forums and let the handful of diplomats instrumentalize the lived experiences of LGBT+s in their agenda, whether against or for. By referring to Anna Spain Bradley, James Thuo Gathii exquisitely points out, although subject-wise in another context but very relevant in essence, that “our approaches to international law should not continue to be ‘descriptively omissive’ of actors and ideas outside the global capitals of international law.”<sup>71</sup> When adhering to this approach in relation to the context of this paper, I would conclude accordingly.

Navigating SOGI issues across international fora, procedurally thinking, could be the most leisurely trajectory to follow. However, we may have a tacit agreement on some limitations of that trajectory. Per contra, it limits any attempt of facilitating dialogue, whether successfully or not, to certain locations where only a handful of actors have the privilege to access (e.g., knowledge, capacity, resources, network). Consequently, in this regard, reference of the lesson which Gathii draws would be worthy echoing: “Perhaps one lesson we can draw here then is that international law scholarship ought to have a place that foregrounds thick descriptive accounts

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<sup>70</sup> The phrase ‘post-pandemic’ is used as an indicator of ‘time point’

<sup>71</sup> James T. Gathii, ‘The Promise of International Law: A Third World View’ *Grotius Lecture Presented at the 2020 Virtual Annual Meeting of the American Society of International Law* (2020), 3–4.

and local knowledge(s) over approaches that proceed from abstract models or universal assumptions.”<sup>72</sup>

In light of the foregoing discussion, no matter how praiseworthy the moral intention behind the human rights concept would be, the fact that reliance on the framework when bringing SOGI issues into international fora inevitably leads to backlash, and the discourse analysis presented above is an example of such backlash in the real world. It can also empirically be seen that there has been no significant change in attitude towards SOGI issues from the 2019 interactive dialogue at the Council up to the point of writing of this thesis.

Consequently, regardless of how many ‘interactive dialogues’ take place in the Council, that dialogue will not be meaningful when the backlash is present. In contrast, it will block all attempts, as Hrubec articulates, “to arrive at mutual recognition and consensus within the framework of intercultural dialogue.”<sup>73</sup> For instance, the mandate holder is tasked with building and promoting constructive dialogue and cooperation on SOGI issues with all member states of the UN. Apparently, there is a need for the other side to have such a dialogue.<sup>74</sup> However, it is equally important that it is constructive. In the example of both dialogues observed above, we can say that they involved both sides, and the opposition was present. However, they sat on that chair not because of engaging with that dialogue or being part of it, but much rather in order to block it. They did not enter that room of discussion for hearing the statements of others,

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<sup>72</sup> James T. Gathii, ‘The Promise of International Law: A Third World View’ (2020), 15–16.

<sup>73</sup> Marek Hrubec, ‘Preconditions of an Intercultural Dialogue on Human Rights’ (2010) 55(1) *Veritas (Porto Alegre)*, 196.

<sup>74</sup> With ‘other side’ I refer here to any party which that dialogue aimed to bring on to the table.

exchange ideas, or find a common ground with all. As I demonstrate in the Finding section above, they rather entered the room to oppose every matter that the dialogue aimed to achieve.

At the end of the day, proponents of the mandate got what they came for - establishing the mandate in 2016 and renewing it in 2019. Then the question arises as to what extent that can be perceived as a success when that ‘success’ did not build a constructive dialogue, but led to polarization in the room instead. For instance, many opposing countries demonstrated their apparent unwillingness to cooperate with the mandate even when it was established. In this regard, it would be worth referring to one of the self-explanatory interventions made in 2019 by the delegation of Bangladesh: “Our position on the matter is clear. The OIC group does not recognize the mandate of the Independent Expert.”<sup>75</sup> Such references have also been made during the first interactive dialogue in 2016, and delegations of Nigeria, Indonesia and Algeria were amongst the countries who made similar interventions.<sup>76</sup>

Notably, the above-presented debate shows to be problematic. Indeed, there is no dialogue in such situations, let alone a meaningful one when one side (the other side) purposely refuses the call. Admittedly, it would be easy or manageable<sup>77</sup> to invoke international human rights fora, claim the space, and navigate SOGI issues through various engagement means. These may include touring missions of some ‘influential’ countries in Geneva or New York; joining side events, delivering statements, naming and shaming countries and their policies, whether directly or indirectly, meanwhile, taking pictures with whoever may come across, sharing those pictures on social networks, whether as an act of self-fulfillment, public manifestation of “I have done

<sup>75</sup> Bangladesh (2019), 00:12:45; *See also* Egypt (2019), 00:20:19; Pakistan (2019), 01:46:28

<sup>76</sup> Nigeria (2016), 03:04:40; Indonesia (2016), 03:10:31; Algeria (2016), 03:21:42

<sup>77</sup> Without undermining the possible risk.

something important today!” or for the purposes of visibility legitimization. But to what extent does it help people on the ground? When being self-critical, to what extent does Cavid Nabiyev’s outreach work in Geneva with authoritarian regimes like Azerbaijan improve the situation of LGBT+s in Azerbaijan? Difficult questions to answer indeed but yet are worth to be asked loudly.

At this point, it can be agreed that any discussion surrounding sexual orientation and gender identity issues walk side-by-side with the oppositional noisome. By analyzing interactive dialogues on SOGI, I demonstrated the existence of strong resistance coming from OIC, AL and ARG countries. As illustrated above, their antagonist rhetoric cemented by arguments, such as western imperialism, respect to each State’s sovereignty, and regard to cultural and religious particularities. Those States are content with keeping their so-called sodomy laws alive for instance. However, there is also another detail in that rhetoric which I seek to interrogate in the following chapter.



## CHAPTER III - PRE-PANDEMIC PERSPECTIVE: BACKLASHES AND NARRATIVE

### ***III.1 Background: SOGI campaigns at the Human Rights Council***

Although the establishment of the mandate of the UN Independent Expert on SOGI dates back to 2016, there had been a journey leading to its creation. It was in 2011 that the very first resolution on SOGI was introduced to the Council.<sup>78</sup> With the adoption of the resolution, the Council asked the UN's High Commissioner on Human Rights (the Commissioner) to produce a global report on discriminatory laws, practices, and acts of violence against individuals and populations with minoritized sexual orientation and gender identity.<sup>79</sup> That report had to also include recommendations regarding possible ways of using the international human rights law framework to eliminate human rights violations on grounds of SOGI.<sup>80</sup> The resolution also emphasized the importance of having “constructive, informed and transparent dialogue on the issue of discriminatory laws and practices and acts of violence against individuals” on grounds of SOGI.<sup>81</sup> In 2014, the Council adopted the second resolution entrusting the Commissioner to update the first report.<sup>82</sup>

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<sup>78</sup> Human Rights Council. GA Res. 17/19, UN GAOR, 17th session, 19th plen mtg, Agenda Item 8, UN Doc A/HRC/RES/17/19 (14 July 2011) (*‘Human Rights Council (2011). UN Doc A/HRC/RES/17/19’*)

<sup>79</sup> Human Rights Council (2011). *UN Doc A/HRC/RES/17/19*, para. 1

<sup>80</sup> *Ibid.*

<sup>81</sup> *Ibid.*, para. 2

<sup>82</sup> Human Rights Council. GA Res. 27/32, UN GAOR, 27th session, 32nd plen mtg, Agenda Item 3, UN Doc A/HRC/RES/27/32 (2 October 2014)

Finally, in 2016, the Council took a step forward by adopting the historic resolution of establishing a mechanism designated to hear LGBTs' voices clearer.<sup>83</sup> As already mentioned, the mandate was established for the term of three years. In 2019, with the irreplaceable role of the second global campaign with the slogan #RenewIESOGI, the mandate was successfully renewed.<sup>84</sup> During these two terms, the mandate has engaged in constructive dialogue with various state and non-state actors, raising awareness, identifying root causes and intersectionality, and made numerous attempts to create dialogue.<sup>85</sup>

### **III.1.1 From backlash ...**

For a campaign to be successful, in general, it has to entail a narrowly defined audience and a compelling message with a clear call for action backed with the theory of change, that is, what we want to achieve, how we think we can achieve it and why we want to achieve it.<sup>86</sup> In other words, it should “define actionable and achievable calls to action that will lead a specific group of people to do something they have not done before.”<sup>87</sup> Notably, the mobilization around the establishment and later the renewal of the mandate entailed those features. The goal of both SOGI campaigns, the message of the call and the target group were crystal clear. To establish the

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<sup>83</sup> Human Rights Council (2016). *UN Doc A/HRC/RES/32/2*

<sup>84</sup> Human Rights Council (2019). *UN Doc A/HRC/RES/41/18*

<sup>85</sup> For more insights on the work of the mandate, please visit the page of the mandate holder <<https://www.ohchr.org/en/issues/sexualorientationgender/pages/index.aspx/>>

<sup>86</sup> Carol H. Weis, 'Evaluation research: methods for assessing program effectiveness' (*Englewood Cliffs, N.J.: Prentice-Hall* 1972), 50–53.

<sup>87</sup> Ann Christiano and Annie Neimand, 'Stop Raising Awareness Already' (2017) 15(2) *Stanford Social Innovation Review*, 38.

mandate, campaigners called upon the Council members, the countries that can cast a vote, and all UN member States who can demonstrate their support by co-sponsoring the resolution.

In this conjunction, having an idea and vision can be a base to build a campaign aimed at change. However, such commitment is not enough to pursue the desired goal if the boomerang effect that the campaign might cause has not been taken for granted. Even well-organized campaigns backed with social change and communication theories can lead to harm, inaction, or backlash by reaching the wrong audience.<sup>88</sup>

For instance, in 2016, the Kingdom of Saudi Arabia tabled a motion for “no-action” to adjourn the mandate’s establishment. However, it failed by a vote of 15 in favor, 22 against, and 9 abstentions.<sup>89</sup> Subsequently, after the failure of the “no-action call,” it is reasonable to say that the opponents came after the resolution in full capacity by introducing hostile amendments: eleven in 2016 and eight in 2019. This time, backed by strong support from Russian Federation and China, a wishful attempt was made to fully erase the wording ‘sexual orientation and gender identity’, thus impairing the mandate’s function in the long run.

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<sup>88</sup> Ann Christiano and Annie Neimand, 'Stop Raising Awareness Already' (2017) 15(2) *Stanford Social Innovation Review*, 36–97; Robert Hornik, 'Why Can't We Sell Human Rights Like We Sell Soap?' in Ryan Goodman and Jinks Derek et al. (eds), *Understanding Social Action, Promoting Human Rights* (Oxford University Press 2012) 59–60.

<sup>89</sup> Human Rights Council. 'Vote on 'No action' motion for the adjournment of the debate' *during* Vote on Draft Resolution A/HRC/32/L.2/Rev.1–'Protection against Violence and Discrimination Based on Sexual Orientation and gender Identity.' UN Webcast (30 June 2016) 00:17:33 to 00:18:40

### **III.1.2 ... To reverse backlash**

In light of this, another constituting feature of a successful campaign is when organizers do not ‘put all their eggs in one basket’, that is, not leaving the campaign on the fate of one strategy or being limited to a few. Likewise, organizers should not overlook unlikely allies. Indeed, engagement with them can broaden the appeal of the message.<sup>90</sup> In my point of view, it can also be understood as a process of ‘casting and retrieving’ - what fishermen conventionally do. I propose to interpret it as a political advocacy outreach, which can be *inter alia* observing the focal point of the opposition, finding dissidents who do not have the courage to raise their voices yet, and retrieving them for the purpose of the common goal. Remarkably, these elements were present in both campaigns.

For instance, textual analyses of statements delivered by the OIC group in both campaigns are thought-provoking and expose an interesting process happening within the opposition. In this regard, Pakistan’s statement on behalf of the OIC, followed by the ‘except Albania’ phrase, captures the attention.<sup>91</sup> That intervention simply implied that the consensus among 57 members of the OIC on issuing a statement against the mandate in a unified form was not achieved. Albania was cast and retrieved from the OIC front, thus breaking down the consensus within the gigantic opposition block in 2016. In other words, the campaign led by the OIC had a reverse effect on the OIC itself. Interestingly, the reverse backlash continued to be a problem for the OIC in 2019 as well. This time, the statement of the OIC did start with ‘except Albania [...]’, and

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<sup>90</sup> Jo Becker, ‘5 Ways to a Successful Human Rights Campaign’ (*International Service for Human Rights* 31 January 2014) <<http://www.ishr.ch/news/jo-becker-5-ways-successful-human-rights-campaign/>> accessed 24/03/2021.

<sup>91</sup> Pakistan (2016), 00:18:54

continued with ‘and Tunisia’. Surprisingly, the next country which excluded itself from the OIC was Tunisia. Notably, Tunisia’s exit affected not only the OIC but also the opposition front entirely as Tunisia is also a member of the African Union and Arab League.

### ***III.2 Regime of Truth: Contesting the Narrative***

When adhering to the constructivist epistemologists’ front, which sees knowledge as a social construction, thus an entity (indicating to knowledge) that can be reconstructed and reinterpreted [process],<sup>92</sup> the power of ‘discourse narrative’ would be the essential element of that process. As Weedon suggests, the discourse narrative is observed as “ways of constituting knowledge, together with the social practices, forms of subjectivity and power relations” that such knowledge does inhere.<sup>93</sup> When looked at it from feminist and post-modernist perspectives, the concept is also perceived as an instrument of domination or one of the machineries of power, and conversely, an effect of that power.<sup>94</sup>

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<sup>92</sup> Stefano Guzzini, ‘A reconstruction of constructivism in international relations’ (2000) 6(2) *European Journal of International Relations*, 174; Linus Hagström, “Power shift’ in East Asia? A critical reappraisal of narratives on the Diaoyu/Senkaku Islands incident in 2010’ (2012) 5(3) *The Chinese Journal of International Politics*, 269.

<sup>93</sup> Chris Weedon, ‘Feminist Practice and Poststructuralist Theory’ (1989) 2(4) *The Journal of Design History*, 108. See also the 2nd edition that was published in 1996.

<sup>94</sup> Irene Diamond and Lee Quinby, ‘Feminism and Foucault: Reflections on Resistance’ (*Northeastern University Press* 1988), 185; Linda Hutcheon, ‘Discourse, Power, Ideology: Humanism and Postmodernism’ in Edmund J. Smyth (eds), *Postmodernism and Contemporary Fiction* (Batsford 1991), 112.

When acknowledging discourse's ability to produce, transfer and fortify the power itself, and deem it as "the raw material of communication that actors plot into narratives"<sup>95</sup>, narratives can be acceded as an expressive means of that discourse, a soft power serving to some 'regime of truth'. As Foucault articulates:

*Each society has its regime of truth, its 'general politics' of truth: that is, the types of discourse which it accepts and makes function as true; the mechanisms and instances which enable one to distinguish true and false statements, the means by which each is sanctioned, the techniques and procedures accorded value in the acquisition of truth; the status of those who are charged with saying what counts as true.*<sup>96</sup>

With that said, in this section, I question the validity of one of the frequently invoked narratives of both interactive dialogues.<sup>97</sup> As demonstrated in Chapter II, whether directly or indirectly, opponents frequently referred to SOGI as an issue that ought to concern only Western countries. To freshen our memory, let me refer to one of the interventions from 2016: when opposing the establishment of the UN mandate focusing on SOGI issues, a representative of Nigeria referred to a common narrative, that is: "LGBT agenda has played out in Western nations."<sup>98</sup> To what extent is that narrative true? Is claiming and advocating for the rights of LGBT+s really an issue that can be constrained only to Western geographies? Supposing that opponents are correct in their narrative, does it mean that lived experiences of LGBT+s in their own geographies lose their validity?

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<sup>95</sup> Alister Miskimmon, Ben O'Loughlin and Laura Roselle, 'Strategic Narratives: Communication Power and the New World Order' (Routledge 2014), 9.

<sup>96</sup> Michel Foucault, 'Truth and Power' in Colin Gordon (eds), *Power/Knowledge. Selected Interviews & Other Writings by Michel Foucault* (Knopf Doubleday Publishing Group 1980), 131.

<sup>97</sup> Besides, further research can also consider discovering carefully how that narrative *per se* prompted.

<sup>98</sup> Nigeria (2016), 00:14:12

Consequently, when engaged critically with the above-posed questions, the inquiry then boils down to interrogating the ‘regime of truth’ of that narrative, thus examining the soundness of wedging SOGI issues to the Western hemisphere. Notably, if adhered to Foucault’s articulation above, the proponents of SOGI campaigns, namely, those who are interested in bringing SOGI issues into international forums such as the Council in our context (non-State actors), and those who navigate that interest in the given forum (State actors), can become the account of this interrogation. Therefore, I suggest perceiving these actors as indicants, like Foucault pointed out, “which enable one to distinguish true and false narrative.”<sup>99</sup>

### ***III.2.1 Actors Navigating the SOGI issues at the Council***

As Christiano and Neimand also underline, the identity of the messenger communicating the call does immensely matter.<sup>100</sup> Conceivably, choosing the right messenger(s) to delegate the call in such a complex and polarized setting like the Council is vital. Notably, initiation of the resolution to establish the mandate of the UN Independent Expert on SOGI by neither the USA nor European countries, which are portrayed as a ‘source of LGBT Agenda’ but by seven Latin American Countries (LAC), is probably one of the key peculiarities that gives meaning to the strategic importance of choosing the right messenger. Consequently, pointing out to Mexico,

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<sup>99</sup> Michel Foucault, ‘Truth and Power’ in Colin Gordon (eds), *Power/Knowledge. Selected Interviews & Other Writings by Michel Foucault* (Knopf Doubleday Publishing Group 1980), 131.

<sup>100</sup> Ann Christiano and Annie Neimand, ‘Stop Raising Awareness Already’ (2017) 15(2) *Stanford Social Innovation Review*, 41.

Uruguay, Chile, Argentina, Brazil, Colombia and Costa Rica<sup>101</sup> would be the first important factor in weakening the ‘regime of truth’ in opponents’ narrative.

Of course, there has been political support from Western countries and assistance in outreach work with other members of the Council. However, it is apparent that it is not them who initiated the establishment of the mandate and became the focal point of support during the negotiations and interactive dialogues. In other words, the call for establishing a mechanism at the UN level to address SOGI issues in a more systematic way came from the Global South and East, and the ones who initiated the dialogue by presenting the resolution to the Council on establishing the mechanism were indeed countries from the Global South.

### ***III.2.2 Actors Interested in Navigating the SOGI issues at the Council***

As Becker articulates, the most effective and credible leaders of change are those most affected.<sup>102</sup> In the given context of this thesis, we can recognize Non-Governmental Organizations (NGO) as the “credible leaders” in Becker’s articulation. Consequently, as such organizations or initiatives are founded only by or with the engagement of the most affected ones on the ground, thus tied up to LGBT+s communities, NGOs, whether operating on regional or national capacities, can also be perceived as actors who represent their constituents [the community]. In other words, they are the agents who bring the local or regional interests and

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<sup>101</sup> LAC 7 countries which introduced the draft resolution (Human Rights Council (2016). *UN Doc A/HRC/32/L.2/Rev.1*) the Human Rights Council in 2016.

<sup>102</sup> Jo Becker, ‘5 Ways to a Successful Human Rights Campaign’ (*International Service for Human Rights* 31 January 2014) <<http://www.ishr.ch/news/jo-becker-5-ways-successful-human-rights-campaign/>> accessed 24/03/2021.



concerns up to international fora. Therefore, the geographical diversity amongst regional and national NGOs supporting the mandate of the UN Independent Expert on SOGI is another instructive feature which helps to shed light on the narrative replicated by the OIC, AL and ARG countries.

For questioning the ‘regime of truth’ of that narrative, I introduce a simplified alternative approach, a conducive concept which I call ‘reverse narrative’. It simply means to turn the narrators themselves into the subject of the narrative which they create. In other words, it is not about working with syntactics, in this case changing the object of the clause, but simply shifting the focus of that narrative. When applying the concept to the narrative that I interrogate in this chapter, that being that “SOGI issues are relevant to [Western] geographies”, then the simplified *reverse* of it would be “SOGI issues are relevant to [non-Western] geographies”.

Admittedly, falsifying both narratives would encompass the same data. However, the point I wish to make here is that focusing on the narrator *per se* but not on the narratee, if you agree, does change the perception attached to the task. It may look as a simple technical modification, however, taking out the [West] as a comparator from the narrative moves the focus from the geography of the narratee (West) to the geography of the narrator (non-West). Consequently, whether SOGI issues are relevant to Western nations or not *in se* becomes irrelevant to any discussion on SOGI. Simultaneously, if it can be demonstrated that “SOGI issues are relevant to [non-Western] geographies”, arguments of opponents which feed the original narrative also lose their validity and credibility. Most importantly, such arguments lose their connection to reality.

When looking at the disposition of opposing countries on the political map of the world, it would not be faulty to classify them as countries coming from the global South and East. When agreed on applying the concept of ‘reverse narrative’ and making the narrator *per se* the subject of the narrative, the claim of OIC, AL and ARG countries would be as follows: “SOGI issues are relevant to Global South and East.”

In order to test my hypothesis, I examined the list of signatories to the global statement supporting the renewal of the mandate of the Independent Expert on SOGI in 2019.<sup>103</sup> In doing so, I quantitatively contest the ‘regime of truth’ of the narrative replicated by OIC, AL and ARG countries, and dispute whether *it* would have a perspective in the post-pandemic world. To make the assessment appealing to the context of the narrative and its ‘contesting’ subjects, on the basis of how they were sorted in the original list, I re-grouped regional and national organizations in the following composition: Global South and East (i), and [West] (ii).

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<sup>103</sup> ILGA World, ‘1312 NGOs working on diverse human rights issues, from 174 States and territories around the world call for the renewal of the mandate of the Independent Expert on violence and discrimination on the basis of sexual orientation and gender identity’ 41st session, Item 8, *General Debate Oral Statement* (Human Rights Council 2019)  
<[https://ilga.org/downloads/HRC41\\_item8\\_general\\_debate\\_global\\_statement.pdf/](https://ilga.org/downloads/HRC41_item8_general_debate_global_statement.pdf/)>

**Table 5:** Geographical representation of national and regional Non-Governmental Organizations supported the renewal of the mandate of the UN Independent Expert on SOGI in 2019

<i>Regions</i>	Regional	National
	<i>% of all organizations (N=225)</i>	<i>% of all organizations (N=942)</i>
Global South and East	71% (160)	69% (646)
• <i>Africa</i>	18% (41)	19% (173)
• <i>Asia and The Pacific</i>	30% (67)	25% (236)
• <i>Latin America and The Caribbean</i>	23% (52)	25% (236)
West	24% (55)	31% (296)
• <i>Europe</i>	16% (38)	31% (296)
• <i>North America</i>	7% (17)	---

Source: Developed by author

As displayed in Table 5, organizations coming from Europe and North America are part of the Western hemisphere, and respectively, organizations coming from Africa, Asia and the Pacific, and the Latin American and the Caribbean territories make up the Global South and East. In respect to that re-grouping, above Table illustrates the representation of regional and national NGOs coming from both territories in percentages (also in numbers).

At the outset, when taking a look at the list of organizations that supported the mandate in 2016, the first remarkable change is in the increase of numbers of organizations supporting the mandate. Compared to 2016, support for the mandate in 2019 was doubled by reaching 1312 NGOs from 174 countries. But what does it tell us when it comes to the ‘regime of truth’ of the reverse narrative? As discussed in Chapter II more broadly, the attempt to echo lived experiences of LGBT+s throughout the international human rights fora is perceived as a ‘Western agenda’.

However, the analysis displayed in Table 5 proves the contrary. Strikingly, the table shows that representation of Western organizations, whether regionally or nationally, barely makes up one-

third of all organizations that endorsed their support for the mandate. Consequently, it leads to the simple conclusion that calling for systematic attention to SOGI at the UN level indeed comes from the geography of the narrator itself, thus making the narrative replicated by the opposition *per se* untenable.

### **III.3 Discussion**

As the Council will be asked again to renew the mandate, the upcoming renewal campaign is on the horizon. As it was in 2016 and 2019, the mobilization of State and non-State actors against the mandate, the possibility of facing backlash, accompanied by hostile amendments, will not be an exception this time as well, and the brief inquiry into the behavior of some OIC, AL and ARG countries which I demonstrated in Chapter II can be the disclosure of that likelihood. In this conjunction, it is essential to look back at both campaigns for a strategic reflection since they contain lessons that are inevitable to be learned and taken into account when developing new advocacy, political outreach, and any other external and internal mobilization strategies.

Undoubtedly, both global campaigns that originated from the creation and renewal of the mandate of the UN Independent Expert on SOGI are great examples of how to organize successful campaigns. Although it was not possible to address every aspect of both campaigns in this thesis, and it is also definite that future research will not be limited to 2016 and 2019 campaigns either, in the discussion below, I draw attention to two important nuances.

Induced from the examination in Section 2, when Albania broke the consensus in 2016, it left the door open. By following Albania, in 2019, by excluding itself from the opposition, Tunisia paved the way to new precedents. But it should not be perceived as a mere advocacy success of ‘casting and retrieving.’ When looking at the interventions made by both countries at the Council closely, it reveals an important nuance, being that it is possible to achieve meaningful dialogue leading to a conscious change in behavior.

In this conjunction, plausibly, for OIC, AL and ARG, Albania and Tunisia can be perceived as a lost cause as their approach to SOGI issues are not complementary anymore. Nevertheless, both countries may yet have the potential of being a mediator. My point is, rather than seeing both countries as mere allies to break down the consensus in the oppositional front, Tunisia and Albania can take leadership as a mediator for building a constructive dialogue with other OIC members. Tunisia’s significance or importance as an ally is also in its geographical location. As a member of the African Regional Group (including Arab League), Tunisia can take the same role as Albania and that leadership of Tunisia as a country from the global South can definitely contribute to changing the narrative in the post-pandemic world.

For instance, the intervention made by the Tunisian delegation lays the ground for that argument: “positive cooperation with mandate holders requires that we should be open to them and cooperate with them without selectivity or discrimination and on the basis of mutual confidence and respect and on the basis of national priorities [...]”<sup>104</sup> In contrast to other OIC, AL and ARG countries, Tunisia does not perceive discussions on SOGI issues as a sign of attack to national sovereignty, instead seeing openness and dialogue as the source of positive cooperation: “ [...]”

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<sup>104</sup> Tunisia (2019), 01:39:37

We believe in dialogue and in tackling all issues and putting them to discussion in a democratic atmosphere. This belief is based in our trust in acceptance of the others opinion because this is the foundation of building democratic society on the basis of citizenship, non-discrimination and respect of dignity for all.”<sup>105</sup>

Besides, when looking at Table 5, it is also mind provoking in terms of reflecting not only on who is in that table but also who is absent from it. As many countries in Global South and East still uphold sodomy laws, which consequently affect the enjoyment of the right to freedom of association, it would be false to claim that all NGOs from those regions could raise their voice and become a signatory to a global statement which would expose their underground engagement. Therefore, it should not be difficult to anticipate that the number of NGO representations displayed in Table 5 is not fully able to capture the entire picture of the Global South and East. With that in mind, the representation percentage of Western NGOs would be an account of another interesting perspective.

For instance, contrary to their counterparts in Global South and East which presumably do operate underground with limited resources and/or in less favorable and advantageous conditions, representation of Western NGOs in regional and national level are respectively 24% and 31%. There might be many reasons, and the political environment can be one of them. “In some countries, NGOs are either considered illegal or their members are liable to persecution. As a result, NGO submissions for countries like Saudi Arabia are made by entities operating

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<sup>105</sup> Tunisia (2019), 01:39:37

abroad.”<sup>106</sup> It can be because the mandate is not that much known and popular among Western NGOs. It can also be because by the end of the day, they just do not mind whether the UN has a mandate called Independent Expert on SOGI or not. However, even though it might not reflect all communities from Global South and East, it is clear as a full moon that Global South and East is the anchor of global mandate. In the words of human rights defenders across the globe, which came from Global South and East, having a UN Independent Expert on SOGI means “inclusion, voice, resilience, equality, empowerment, accountability, visibility, justice, intersectionality, hope.”<sup>107</sup>

When thinking of the devastating impact of the pandemic on many, particularly on vulnerable populations like the LGBT+s, the continuity of the mandate’s work may have an utter meaning for ensuring the global recovery from the pandemic for everyone and that nobody will be left behind. In this regard, as Ciarán Cannon inspirationally articulates, “an unprecedented spirit of global solidarity is required to overcome the multiple threats COVID-19 poses to our health, economies and societies, particularly in resource-poor settings.”<sup>108</sup> Undoubtedly, global mobilization and intersectionality will be vital elements of this process. But in the example of that particular mobilization or thinking of navigating issues and claims of LGBT+s in general, what can be learned from the past in regard to claiming rights of LGBT+s in the post-pandemic world?

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<sup>106</sup> Bantekas Ilias and Lutz Oette, ‘International Human Rights Law and Practice’ (*Cambridge University Press* 2020), 170.

<sup>107</sup> ILGA World, ‘#RenewIESOGI - Listen to Human Rights Defenders’ *ILGA World YouTube Channel* (3 July 2019) <<https://www.youtube.com/watch?v=AxuJc4XCOI8/>> accessed 23/03/2021.

<sup>108</sup> Ciarán Cannon, ‘Foreword’ in Carmody Pádraig, McCann Gerard et al. (eds), *COVID-19 in the Global South: Impacts and Responses* (*Bristol University Press* 2020), xix.

History has seen many pandemics, but I can speak for the one which I am momentarily in the middle of. Although the pandemic is not over yet and it requires time to study its implications, I do not see a need for empirical evidence to state the obvious - This pandemic that led to the global shutdown has brought with it a new reality. It is not the objective of this thesis though to discuss those changes. As mentioned in the introduction, for the purposes of this thesis' interrogation, the pandemic has been taken as a moment in time, in which we as practitioners of the rights framework could keep claiming rights momentarily on hold, look back and have a critical reflection on the used dictionary, the vehicle to translate lived experiences of LGBT+s into claims and navigate them throughout various human rights forums.

With that said, on account of the question posed in the paragraph above, in this thesis, first I questioned the origins of the dictionary itself, then reflected on its practice in the real world. After pointing out the practical limitations in the context of SOGI issues, I am concerned with the reliance on that dictionary and the framework it offers in the post-pandemic world. In the example of two interactive dialogues at the UN Human Rights Council and any other human rights forums where SOGI issues are or might be brought, I am concerned with the political and ideological backlashes between sides of the so-called dialogues, which themselves are limited to a handful of actors.

Interrelatedly, I demonstrated in this chapter that irrespective of the resistance of opposition and the narrative that they replicate, the urge for having a dialogue on SOGI issues on the global level is indeed coming from the global South and East, and no doubt that this call will continue to include more voices and get stronger compared to previous ones. However, if taking into



account the fact that its use brings more harm rather than good, *what would be the continuation in reliance on the universality of the concept of human rights as the main vehicle to frame and navigate that call promise in the post-pandemic?*

## CONCLUSION

Throughout this academic inquiry, being critical yet staying objective was essential for me as a researcher. Nevertheless, I cannot deny the critical role of my intersecting identities in this process either. I admit that my own lived experience might have influenced my positioning in the course of this critical inquiry. However, this should not be perceived as an acknowledgment of bias in the interrogation but as an objective or an attempt of a researcher to connect o's lived experience with academic inquiry.

To note key milestones in my personal journey, it is important to mention that I came to activism “to make the unbearable pain go away”, not only concerning me, but also for others in similar situations.<sup>109</sup> I was born into a place in a ‘state of war’ against any differences and diversity in humans that have been seen as a threat to the religious, traditional, political authority present there. Thus, I was hurting just because of who I am. Therefore, I came to activism in order to turn my lived experience into an opportunity for dialogue that leads to healing and to be part of the ongoing dialogue, even to initiate my own one. I also needed a tool and framework that would enable me to translate this lived experience into a claim, and subsequently navigate that claim throughout fora where such dialogue takes place. In the search for that tool and framework, I found the UDHR, a ‘dictionary’ that values it stands for mainstreamed globally by Western [gay] liberationists as a central vehicle to frame and navigate claims.<sup>110</sup> I had no option other than relying on the universality of the concept of human rights that the dictionary

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<sup>109</sup> Cavid Nabiyev. ‘Theorizing My Pain for Queer De-Liberation.’ *Shuddhashar* (20) August 1, 2020. <<https://shuddhashar.com/theorizing-my-pain-for-queer-de-liberation-cavid-nabiyev/>>. accessed 02/05/2021.

<sup>110</sup> Kelly Kollman and Matthew Waites. ‘The Global Politics of Lesbian, Gay, Bisexual and Transgender Human Rights: An Introduction.’ (2009) 15(1) *Contemporary Politics*, 3–7.

represents, thus, becoming part of the chain of activists and practitioners who use it as the main vehicle.

Admittedly, I was privileged by using that dictionary and any framework it offers. It enabled me to have access to international fora and navigate my claim(s) throughout those spaces, and I do not challenge the values they stand for. However, I was also having second thoughts towards the vehicle itself but never had the chance or felt the urge to question it.<sup>111</sup> But the pandemic became an opportunity to revisit my long-existing concerns and critically reflect on them as a matter of what we, as fellow and future activists, practitioners should be mindful of when framing and navigating the issues of the oppressed, the marginalized ones in the new reality created by the pandemic. Therefore, in this thesis, I sought to answer *what relying on the universality of the concept of human rights would promise in the post-pandemic world*. In the course of answering that question, I was primarily interested in two matters: the origins of the concept itself, on the one hand, and its limitations when it is put to use in the real world, on the other hand.

As I underlined in Chapter I, generally speaking, the first matter should be understood as a question of ethical concern of a practitioner towards the concept, dictionary, and framework of uses. Admittedly, the question is not about finding reasons to abandon the concept but argue for not letting the values behind that concept blind us. It is true that UDHR may give a starting point

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<sup>111</sup> Similar concerns have also been shared by prominent scholars. The most convincing elaboration on regard of *inter alia* harm caused by “‘human rights’ rhetoric and consolidation of a seemingly ‘international’ framework” can be found in Seckinelgin’s and Long’s works on “global activists’ influence on sexual and gender non-conformists in sub-Saharan Africa, India and Iran respectively.” See Lovell Natalie, ‘Theorising LGBT Rights as Human Rights: A Queer(ital) Analysis.’ *E-International Relations* (University of Leeds 2015), 1; Kelly Kollman and Matthew Weites, ‘The Global Politics of Lesbian, Gay, Bisexual and Transgender Human Rights: An Introduction’ (2009) 15 (1) *Contemporary Politics*, 14.

of norms and behaviors and be an instrument to identify and develop new principles that may be labeled as rights one day. Above all, as a dictionary, it may provide the oppressed with a practical or functional language, a vocabulary to use for entering the room and be part of the right discourse, whether at the domestic or international level. Nevertheless, how ethical could it be to anchor and defend claims of the oppressed within the limb of the concept that *per se* was built upon oppression?

On the one hand, as demonstrated in the first chapter, the process leading to the adoption of a document that aimed to represent a global moral authority was indeed a battleground between ideologies which I referred to as socialism/communism on the one side and capitalism/democracy on the other side. Indeed, it was a compromise between ideological extremes rather than transcultural dialogue on universal moral order. On the other hand, I also pointed out the number of countries that saw in themselves the mastery of establishing global moral authority. As emphasized before, it was not a mere calculation and interrogation of who was there and with what intention. It was rather a critical review of the process from the perspective of those who were not part of that process.

By taking the post-colonial perspective into account, not to mention the expansion in nations' geopolitical map, the founding process of the UDHR reflects the exclusion, political negotiations, and tension between ideological extremes. Indeed, not the defeated (formerly described and metaphorically emphasized as losers), but the winners of WWII got to draft a new global moral order. It is also true that it was expected from the winners side to take along with

them those who helped them on their journey, those who were indispensable to secure the victory - something they failed to do.

Following the interrogation and the discussion afterward in the first chapter, I concluded that the modern concept of human rights that ought to be universal was constructed in an exclusionary and oppressive context. That context illustrates a reality in which the colonized who have been told about universal human rights themselves were denied to be subject to those rights in the process of establishing the global moral authority - universal rights of humans. Truly speaking, that reality will be one of the major hassles for me, whenever I, as an activist and as a practitioner, resort to the universality of the concept of human rights and to the notion that human rights are universal, inalienable, indivisible, interdependent, and interrelated.

For almost a decade, the concept has been used as the primary vehicle for framing issues and defending claims pertinent to SOGI issues or rights of LGBT+s globally.<sup>112</sup> Interrelatedly to the ethical dimension of my interrogation into the universality of the concept of human rights, the second matter was concerned with the concept's efficiency when invoked in real world. In order to answer the question, I turned to the Human Rights Council, the main UN fora, where the SOGI issues are being brought to the attention the most, to examine how States perceive and react accordingly to issues when they encounter SOGI issues and claims.

By conducting discourse analysis of two interactive dialogues on establishing and later renewing the mandate of the UN Independent Expert on SOGI, in the second chapter, I demonstrated that

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<sup>112</sup> The first UN document in this regard is the resolution on “Human rights, sexual orientation and gender identity” adopted by the Council in 2011. Human Rights Council (2011). *UN Doc A/HRC/RES/17/19*

any attempt of bringing SOGI issues into international fora is accompanied by inevitable backlash. The post-pandemic reflection points out a presence of strong opposition in the Council. Notably, members of the Organization of Islamic Cooperation (OIC), Arab League (AL) and the African Regional Group (ARG) at the UN, in particular those upholding sodomy laws, are the focal points of that opposition.

As expected, they perceive SOGI as a threat to their cultural, religious, societal particularities, a vague and controversial concept constructed in Western geographies. They regard any attempt to have a dialogue on this matter as an act of imposition of an agenda ‘played out in Western nations’ or deliberate attack on their sovereignty and as a sign of cultural imperialism. They do not want to accept the universality of human rights or do not want to see SOGI issues within their version of the universality concept of human rights. Moreover, they demand to respect that vision. Whether we like it or not, there is one reality out there, and in that reality, SOGI issues are not welcomed in the Council. At least on account of their UPR records, which can be understood as another important UN forum where SOGI issues are navigated, it certainly does not look like that polarization is going to disappear anytime soon.

The opposition has grounded its arguments on various narratives in both interactive dialogues, but amongst them, one was the most prominent one. No matter what frame they invoked, the essence of each intervention was that ‘SOGI issues are only relevant to Western geographies’. As this narrative was spotted during the research phase, its interrogation within the scope of this paper was not part of the initial plan. However, due to being one of the main arguments which

the opposition relies on very often, I found it relevant to check the accuracy of that narrative and question its tenability in the post-pandemic world.

The conclusion in this regard is absolutely the opposite of what is narrated by the opponents during both interactive dialogues. In contrast to such an untenable narrative that the opposition fiercely replicates, I introduced another tenable narrative, a reality in which SOGI issues are relevant to Global South and East. By examining the list of national and regional CSOs which endorsed the statement supporting the renewal of the mandate of the UN Independent Expert on SOGI in 2019, on the one hand, and SOGI friendly countries in the Council, on the other hand, in Chapter III I showed that the call for establishing a mechanism at the UN level to address SOGI issues systematically actually comes from non-Western countries. In other words, it is the geography of the narrator *per se* which is interested in bringing SOGI issues to the UN space and initiating the dialogue(s) in the Council in this regard.

Although the scope of the research was limited to interrogating the faultiness of one narrative, the findings illustrated in Chapter II indeed can be an account of future research. For instance, studying the resistance of OIC, AL and ARG countries towards SOGI issues from the postcolonial conception of resistance, particularly focusing on the utility of “relativity/state sovereignty” and “coercion” frames, which I discussed in that chapter, can be amongst the starting points.

Additionally, that discussion should also encourage the possibility of reconsidering how SOGI claims are navigated throughout international fora. For instance, next year, the Council again will

be asked to renew the mandate of the UN Independent Expert on SOGI, and most plausibly, new re-mobilization to support the renewal call is on the horizon. Since it contains lessons that are important to be studied, especially when it comes to the inevitable backlashes, Chapter II also presents an instructive flashback for activists, practitioners and other relevant actors (allies) who contemplate being part of the upcoming re-mobilization campaign supporting the renewal of the mandate. Sections on the *backlash* and *reverse backlash* would be very instructive for advocacy purposes when strategizing outreach work in the Council.

At this point, I would like to give a personal remark on the impact this research has had on my work. One vital reason why it seemed so essential to question the dictionary that I have been using for almost a decade to frame and navigate my claims as an activist, and to emphasize the value of the research process itself is that it coincided with the moment, after some time of consideration, took my decision to terminate my asylum and return to my country of origin, a place where I had to leave five years ago due to danger to my life. As I have made a decision to continue my work as an activist, as a practitioner, and as a researcher there locally, the main question was whether I should continue to rely on the universality idea of the human rights concept in the post-pandemic world, an idea that was the main vehicle, framework to turn to or agency of justification to base my claims in the past-pandemic world. Therefore, this research was an opportunity for me to delicately evaluate the ethics behind the concept and the efficacy when brought to practice (improve the work of an activist and lead to desired change). The human right concept and its universality aspect might be a useful tool for my work, although the language derived from it is far more powerful and shows a much higher impact than the concept itself, whether it comes to national or international human rights fora.



In conclusion, the answer to the main research question, which is about the post-pandemic perspectives of continuation in invoking a concept towards countries that are happy with upholding their sodomy laws for instance, is firm. The reliance on the universality of the concept of human rights as the main vehicle for claiming rights of LGBT+s will be inefficient as it promises the same political and ideological backlashes and nothing else, thus fewer chances of making substantive steps towards meaningful intercultural dialogue on human rights.

## ANNEX I - List of states that participated in interactive dialogue that took place in 2016 and index of their speaking

<b>Albania</b>	03:12:34
<b>Algeria</b>	03:21:42
<b>Bangladesh</b>	12:26
<b>Botswana</b>	03:03:11
<b>Brazil</b>	03:22
<b>Chile</b>	00:43
<b>France</b>	03:15:33
<b>Germany</b>	01:07:54
<b>Ghana</b>	03:22:51
<b>Indonesia</b>	03:10:31
<b>Maldives</b>	42:09     49:45
<b>Mexico</b>	08:39     29:28     53:22     01:00:23     01:05:22     01:10:42     01:15:49     01:20:55     01:26:37     01:32:44     01:42:04     01:50:51     02:00:23     02:22:17     02:23:12     02:26:15     02:30:23     02:34:38     02:39:01     02:49:10
<b>Morocco</b>	03:17:11
<b>Namibia</b>	03:28:02
<b>Netherlands</b>	33:41     01:17:14     01:34:57     01:46:53     02:10:17     03:31:17
<b>Nigeria</b>	12:55     02:25:18     03:04:40
<b>Pakistan</b>	18:54
<b>Panama</b>	11:02     01:12:41     01:44:19
<b>Philippines</b>	02:51:08
<b>Qatar</b>	43:11     47:15     50:55
<b>Russian Federation</b>	02:08:33     02:41:34     02:54:12

<b>Saudi Arabia</b>	05:01     35:51     02:43:53     02:58:04
<b>Slovenia</b>	55:55     01:23:12
<b>South Africa</b>	03:00:34
<b>Switzerland</b>	01:02:03     01:28:45     01:53:58   02:07:32     02:27:26     02:36:06     02:46:09
<b>United Arab Emirates</b>	45:22
<b>United Kingdom</b>	39:42     01:30:17     01:37:48     01:45:37     01:56:06   02:05:23     02:23:42     02:31:50     02:35:11     02:40:18     03:29:52
<b>Uruguay</b>	02:09
<b>Viet Nam</b>	03:08:48

## ANNEX II - List of states that participated in interactive dialogue that took place in 2019 and index of their speaking

Argentina	00:35     01:00:32     01:06:35
Australia	01:14:24     01:19:11     01:23:27     01:44:09
Austria	42:25     51:43     57:41
Bahamas	01:36:51
Bangladesh *	11:22
Chile *	22:46     01:26:08     01:31:08
Czech Republic	01:42:03
Denmark	26:45
Egypt	20:19
Fiji	33:51     01:28:39     01:33:16
Hungary	01:38:15
Iceland	32:14
Mexico *	01:12:29     01:17:17     01:21:21
Nigeria *	18:22
Pakistan *	07:03     01:46:28
Peru	38:46
Qatar *	14:44
Saudi Arabia *	13:15
South Africa *	28:34     44:15
Tunisia	01:39:37
United Kingdom *	36:16     01:03:45     01:09:38
Uruguay *	03:35     40:52     49:51     55:01

\* These states were also part of the interactive dialogue that took place in 2016.

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