RELIGIOUS ACTORS AND THE UN DEBATE ON LGBT RIGHTS
DECLARATION BY CANDIDATE

I hereby declare that this thesis, “Religious Actors and the UN Debate on LGBT Rights”, is my own work and my own effort and that it has not been accepted anywhere else for the award of any other degree or diploma. Where sources of information have been used, they have been acknowledged.

Name

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Date
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INTRODUCTION

Drama in the Human Rights Council

On the morning of 7 March 2012, the United Nations Human Rights Council (HRC) convened at the Palais des Nations in Geneva for a panel discussion, as part of its 19th regular session. The large conference room of the HRC was crammed with representatives of member and observer states, NGO’s and the press: the meeting had the promise of being of some historical importance. As usual, the High Commissioner for Human Rights, Navi Pillay, made some introductory remarks on the subject at hand. Subsequently, the same was done by the Secretary-General of the UN, Ban Ki-Moon, in a video-message from New York – which was not at all ‘as usual’. 1 As extraordinary as this was, the meeting soon took an even more ‘spectacular’ turn when diplomats claiming to represent the African Group, the Arab Group and the member states Organization of the Islamic Conference (OIC) protested vehemently against the subject of the panel discussion. Their problem was not the way it was to be discussed, but the fact that it was to be a topic at all – and as a consequence a significant number of diplomats stood up, packed their bags and walked out of the room.

The discussion against which the Islamic and African states protested was officially called the Panel Discussion on Discrimination and Violence based on Sexual Orientation and Gender Identity. The reasons the objecting states gave were diverse. The delegate from Pakistan, on behalf of the OIC, posed the quite legalistic argument that “concepts such as ‘sexual orientation’ are vague and misleading, and have no agreed definition and no legal foundation in international law. The international community only recognizes those rights that are enumerated in the Universal Declaration of Human Rights (…)” 2 Mauretania, speaking on behalf of the Arab Group, stated that treatment of the subject would conflict with “the rights of peoples and communities to practice and enjoy their social and cultural rights.”

While the events described above may at least cause many less-informed readers to raise an eyebrow, they did not come as a great surprise to most of the people involved. Both the contested agenda-item of the HRC and the staged walk-out that followed can be seen as parts of major developments that have been important in global human rights debates for the last twenty years. The first of these is the increasing role of religion and religious belief in international relations and global politics. The second is the push by a number of actors towards the global recognition of human rights related to sexuality and gender. The panel discussion in Geneva was effectively the next in a series of clashes between these two developments.

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2 Statement by Pakistan on behalf of the OIC at the 19th session of the HRC, Geneva, 7 march 2012.
A major part of the issue seems to be that different actors see human rights in different ways. In the words of Andrew Clapham: “For some, invoking human rights is a heartfelt, morally justified demand to rectify all sorts of injustice; for others it is no more than a slogan to be treated with suspicion, or even hostility.”

What occurred in Geneva was not only a clash between two ongoing developments in international relations, but also a clash between fundamentally different views of what human rights exactly are. The problem with this, of course, is that when actors in a debate differ on such a fundamental level, the debate itself might never proceed beyond its basic stages.

Despite the fact that the case described above was definitely not the first time this ‘conflict of interests’ came to the surface, there has been little research on the role of religious actors in human rights debates on the international level, and that is a serious caveat. It has been argued that human rights logic is dependent on “culture, time, place and knowledge”, and that as a consequence it is of the utmost importance to understand the driving forces behind human rights discourse. Otherwise “we risk missing the currents which will determine its future direction.” It is to this kind of understanding that this thesis intends to contribute. If it is true that religious actors play a role in some contemporary human rights debates, we need to gain more understanding of how significant that role is. Hopefully, such understanding can contribute to the fruitful discussion of ‘religiously sensitive’ human rights issues.

**Research question & justification**

The main question of this thesis will be: “To what extent do religious actors in the political bodies of the United Nations affect debates and decisions with regards to LGBT rights?” Before trying to find an answer to this question – or even wondering how that answer can be found – we should ask ourselves why such a question is relevant, both to the scholarly field of IR, and to the practice of international human rights politics. In order to do this, two different aspects should be taken into account: the role of religion in contemporary IR studies, and the connections between religion, religious actors, and LGBT rights.

For a large part of the twentieth century religion was widely seen as a rather insignificant aspect of international politics. This disregard for religion was not characteristic for scholars of International Relations, but was widespread among in many of the social sciences. The basis for this was a set of assumptions that maintained that rationality and secularity always go hand in hand, and

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4 Ibid.: p. 19
5 Ibid.
that (by definition) modernization of political and social systems always goes together with a process of secularization that removes religion from the public sphere. Social scientists did not, of course, deny the existence of religion in society, nor the fact that religious institutions, might be influential, but simply presumed that religion was not among the factors that influence international politics. Therefore, it was not to be regarded as a relevant topic of research.

As a consequence of this believe in the eventual ‘victory’ of secularism, IR scholarship became essentially secular in character. According to Shah and Philpott, this means that IR scholars “write as if states, and indeed any other actors on the stage of international politics, pursue ends such as power, security, wealth, conquest, wars of defense, the protection of human rights], and the like, but do not pursue specifically religious ends and are not influenced by religious actors.” In other words, the great majority of authors simply ignored the idea that religion might be a factor of consequence in international politics.

In recent years however, more and more scholars have questioned whether this kind of thinking does justice to the reality of contemporary international politics, especially with regard to themes that are highly relevant to religious thinking. In fact, during the last 20 years, interest for religion in IR circles has grown like the proverbial snowball rolling from a hill. It would perhaps be possible to point to single events as catalysts for this phenomenon, such as the Islamic Revolution in Iran (1979), the end of the Cold War or the attacks of September 11, 2001. But that is unnecessary here. It suffices to say that social scientists have started to realize that, as Haynes puts it, “much current evidence suggests not that religion’s influence is declining in line with the claims of the secularization theory but rather that its social and, in some cases, political influence is growing in many parts of the world.” An important example of one of these scholars is the philosopher Peter Berger, who was once convinced that religion would be practically extinct at the end of the twentieth century. Instead, Berger felt obliged, at the turn of the century, to say that “[the] world today is as furiously religious as it ever was.” One of the first works on the subject that gained world-wide attention was Huntington’s *Clash of Civilizations*. While not exclusively, Huntington divided his civilizations largely along the lines of the geographical distribution of the world’s main religions. In

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particular the Islamic and Hindu civilizations in his model are highly defined by religion. He went even so far as to state that “[in] the modern world, religion is a central, perhaps the central, force that motivates and mobilizes people.” The events of 9/11, the consequent war against the Muslim-fundamentalist Taliban, and later terrorist attacks by extreme Islamists across the world have garnered further attention for the role of religion in international affairs.

Of course, the fact that scholars have come to recognize the importance of religion and religious actors in international relations gives no explanation of how and why it affects specific fields of international relations. As one might imagine, the influences are not the same in, for example, armed conflict situations as they are on development aid or indeed human rights regimes. With To explain these possible influences, multiple approaches are possible. In the case of human rights it is useful, perhaps even necessary, to go back in time. This is because one way to explain the connection between religion and human rights is to look at the religious origins or foundations of human rights thinking. Sometimes the origins of human rights are even said to be religious writings. Lauren, for example, has traced the concept of human rights back to early Hindu, Jewish and Christian holy texts, among other sources. All these texts do indeed refer to the intrinsic value and dignity of individual human lives. Others have found links between the idea of individual natural rights and a range of late medieval and early modern thinkers like Ockham, Hobbes, Locke and Grotius. Many scholars connect the concept of human rights primarily with 18th century Enlightenment thinking. It is not necessary here to decide which theory is true. What is important is that during all these periods - even the Enlightenment, despite the secular image it often has in our time - religious ideas and rights thought were practically never strictly separated in those days. According to many, the first real statement of universal human rights can be found in the declaration by Thomas Jefferson that he and his fellow members of the Continental Congress held “these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty, and the pursuit of Happiness.” This is not only a statement on the rights of man, but in a sense also a religious creed. However secular it sometimes may seem, the contemporary notion of human rights is in fact a consequence and solidification of previous debates, in which religious ideas have played a very important role. It is therefore not surprising to see religious actors continue this legacy by trying to give their religious input in current debates.

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12 Huntington (1996): p. 27
16 United States Declaration of Independence (1776)
It is also possible to understand this religious interest in human rights without diving deep in to a common past. There is a natural link between religion and human rights that stems from the fact that many religions uphold specific views on how people should interact, and how societies should be organized. In a certain sense, human rights – and human rights regimes - do exactly the same thing. The formulations are often different, but the results the same: for example, the widely-recognized right to life and integrity of the body has the same aim as the religious commandment ‘Thou shalt not kill.’ Of the different aspects of life that many religions provide rules or guidelines about, sexuality is not the least. Religion, as Parrinder puts it, “takes the world as its province, and turns its eye upon the slightest manifestations of sex, as the history of the great world religions demonstrates”.17 Some authors have even considered the ‘regulation’ of sexuality to be a characteristic aspect of religion. According to Hunt and Yip

the connection between sexuality and religion, as the disciplines of anthropology and religious studies hitherto show us, have [sic] long been central to the human experience and this is clear in the fact that all religions in all times, in all places, attempt to structure sexual behavior through divinely sanctioned or sacred moral guidelines and prohibitions around sexual activities and through concomitant frameworks of morality.18

And indeed, to those who are at least slightly familiar with (especially) the Abrahamic religions, the notion that religious thinking makes claims about human sexuality may even seem self-evident. The holy texts of these faiths, as well as those of other religions, provide rules or directions on what falls under proper sexual conduct and what not. Of course, the extent to which followers adhere to these directions – or want others to follow them – differs greatly among individuals and denominations. But the important thing here is that the rules are there, and at least some people feel they should follow them. As with all conflicts between religious ideas and human rights thinking, problems arise when rules from both ‘worlds’ conflict. This is the case with LGBT rights. An example: some adherents of the monotheistic religions, in particular of the more fundamentalist variations, believe that those who engage in sexual activities with a person of the same sex, should be punished for it, because their holy texts suggests they should do so. Islamic sharia law is especially strict in this respect. There seems to be a consensus among sharia experts of all important schools of Islam that homosexual activity is a grave sin and should be punished – if not by death, than at least with

physical chastisement. Human rights activists would try to abolish these punitive practices, because they infringe on universal human rights. Because of the dogmatic character of many religious denominations, ideas on human sexuality have often been the same for centuries and are not likely to change quickly. An example is the strict division of the population in two sexes – and no more: “The standard view is that there are two sexes, male and female. This view is so securely lodged in Western religion and culture that it may appear devious to even question it.” This phenomenon ensures that differences of opinion on topics like these are very difficult to ‘solve’.

Based on what has been said above, the following can be concluded. In the two last decades, religion has become recognized as an important force in international politics by more and more scholars of International Relations. As a result, it is not in any way strange or unusual anymore to investigate the role of religious actors in a specific field of international politics, such as human rights. Furthermore, there are strong connections between the field of human rights and religion. Early debates on human rights were often inspired by and connected to religious thinking. Perhaps more importantly, an important similarity between religious scriptures and human rights documents is that both contain rules and guidelines regarding the interactions between human beings. This is also true for issues regarding sexuality, which have always been central to many religions. As a consequence, it is very logical that LGBT-related topics would spark the interest of religious actors. Together, these factors should justify the research topic of this thesis.

Methodology

In terms of methodology, this thesis can be seen as a case study. The specific case of the LGBT rights debate is of course an example of the much wider phenomenon of human rights debates. The latter subject, however, would be far too complex to be substantially covered within the scope of a MA thesis. The debate on LGBT is a good case study because it is relatively new, often has clear supporters and opponents, and most importantly, it often touches on views held by many religions. The purpose of any case study is to gain understanding of a specific case in the most complete way possible. Therefore it is necessary to collect – if possible – both qualitative and quantitative data, stemming from a range of sources. The qualitative data in this thesis will come both from existing literature on relevant subjects, and from the proceedings of UN human rights bodies and conferences. As one might suspect, the different subjects at hand have been discussed by scholars

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working in a wide range of academic fields and paradigms. The majority of the literature used can be divided into three different fields: literature on the relation between religion and (international) politics; on the relation between religion and human rights; and on the specific field of ‘sexual and reproductive rights’. The official proceedings of UN meetings are often publicly available. Often they do not contain the literal statements of representatives, but they still make it possible to analyze the general direction of a debate. In some cases, such as the HRC, recordings of many of the meetings (in recent years) have been made available through the internet, which makes it possible to describe what happened from a first-hand perspective. The quantitative data comes partly from these same UN documents (with regards to divisions of vote), and partly from research done by the Pew Research Center on the numbers of religious adherents within national populations and on religion-related policies around the world.

For practical reasons, the case study has been limited in a number of ways. These limitations - which stem from choices made regarding the specific debates under scrutiny – will be further explained and justified in chapter 2, but a small outline should be given. The first limitation is a restriction with regards to time. The timeframe the research question implies starts in 2003. This is of course not a random choice. In 2003, the subject of LGBT rights was first treated in a political body within the UN. Because the thesis focus of the thesis lies on these political bodies, the year 2003 is a logical starting point for the research. It should be clear however, that discussion of the subject in other UN entities and other intergovernmental institutions has been going on for a longer period. In 1994 the Human Rights Committee ruled in the case Toonen v. Australia that Tasmanian laws criminalizing sexual relations between men were in breach of the International Covenant on Civil and Political Rights (ICCPR), which was interpreted as prohibiting discrimination on grounds of sexual orientation. Since, then the subject has returned to the agendas of different entities, but only since 2003 in the bodies where UN member states play a central role.

Some choices have also been made with regard to the range of actors. Firstly, it should be clear from the onset that this thesis analyses only those actors and their actions that are visible in the official UN meetings. To investigate what goes on behind the screens would require a completely different approach. As we will see, this choice can cause differences in findings compared to other authors who have focused on similar questions. However, such differences in approaches and results do only enrich our total view of the workings of religion in the UN human rights system. Secondly, while religious actors can of course have all kinds of religious beliefs, discussion here limits itself to Islamic and Christian actors. These are the two largest religions in the world. Their adherents make

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up majorities in a large part of the worlds’ states, so they can also be expected to form at least substantial part of the religious actors.

**Thesis outline**

In the following part, the four chapters of the thesis will be outlined. The first chapter contains the theoretic framework for the thesis. Some basic assumptions will be explained, and a number of core concepts defined. Most importantly, the chapter will give the working definition of a ‘religious actor’. Which conditions does an actor have to fulfil to be considered ‘religious’, and how can these conditions be operationalized? This will be answered by taking existing theories and definitions from the field of IR, and adapting them to the case at hand where necessary. Furthermore, the chapter will explain how the impact of these actors in the relevant bodies can be measured.

The second chapter is in a sense a continuation of the theoretical framework, but is separated from the previous chapter because their contents are clearly different. In short the chapter explains which actors and which debates will be taken into account and why. It starts with a short explanation of the importance of human rights in contemporary international politics, based on work done by Clapham. This will be followed by an outline of the international human rights regime, with of course special attention to the UN human rights system. In this section it will also be explained which of the UN bodies have a central role in this thesis, and why. The last section will take a closer at the debate on LGBT rights. We will see how the debate has developed within the UN, and also which of the specific events in that debate are relevant to the following chapters. In short, the chapter can be seen as ‘setting the stage’ for the rest of the thesis.

The more analytical part of the thesis starts in the third chapter. Here the concepts that have been operationalized in the first chapter will be first put to use. The chapter consists of two different parts. In the first half, we will look at the sides UN member states have taken with regards to LGBT rights on two different occasions: the reading of two declarations on the subject in the GA in 2008, and the introduction of an LGBT rights resolution in the HRC in 2011. These divisions will be filtered using two datasets on religion from the Pew Research Foundation. This method enables us to see how many states have an affiliation with a specific religion, and on which side of the debate they operate. The second part of the chapter analyzes the actual debate that has been held on a number of occasions (amongst others the two mentioned above). Here, the central question is whether actors have expressed themselves in a clearly religious way. Do the type of arguments actors use support the idea that religious actors are important in this debate?

The fourth chapter analyzes the rate of success of the identified religious actors. We will determine this on three different levels: within the political bodies where the actors operate, in
relation to other relevant bodies in the UN, and in the ‘world outside the UN’. It should be noted that the first level is the most important, while the other two will be made subordinate to the first. On each level, an assumption is made about what the different religious actors that have been discussed earlier would have wanted to achieve. These goals can then be compared to indications of what has actually happened.
1. THEORETICAL FRAMEWORK

Chapter introduction
Now that the topic of the thesis has been introduced and justified, and the research question formulated, it is time to lay out the theoretical framework that will be the foundation of the analysis in later chapters. In general terms, the thesis deals with the establishment of norms (regarding the human rights of a specific group) in the context of international institutions, and thus needs to take both of these aspects seriously on a theoretical level as well. Over the years a number of different paradigms have taken form in IR theory, which would approach these two aspects in different ways. For a number of reasons, the one that is in my opinion best suited to the research question at hand is the neoliberal framework. Firstly, neoliberal writing recognizes the importance of international institutions in the creation of international norms and regimes, and in ensuring commitments are honored. Secondly, it allows for a focus on social –rather than security – issues in intergovernmental and state-NGO interactions. In these two points, it contrasts most sharply with the different strands of realism. Lastly, neoliberalism has been recognized as a good starting point for those who want to take into account the role of religion in international politics: “With its emphasis on international institutions and norms, the Neoliberal tradition is a particularly appealing framework, especially for scholars who investigate the transnational aspects and influence of religion.” While this choice for a specific paradigm gives some insight into the general assumptions of the thesis, a more detailed theoretical structure is needed. In order to provide this, we need to look closer at what the research question actually asks, and how it can be answered.

Answering the research question
The first question that needs to be asked in order to create a coherent theoretical framework is how exactly the research question can be answered. In the thesis introduction, this question was formulated as: “To what extent do religious actors in the political bodies of the United Nations affect debates and decisions with regards to LGBT rights?”

First, it is clear of the concepts in the question need to be defined. The most ambiguous of those, ‘religious actors’, will be explained below. What is exactly meant by the ‘political bodies of the UN’ and ‘LGBT rights’ is the subject of the next chapter.

24 Sandal & Fox (2013): p. 89
Besides defining the separate elements of the question, we need to consider of which elements an answer should consist. It should be clear the answer needs to be more than just a characterization of the religious actors. Because the question asks to what extent these actors have affected the debate and decisions, we need some measurement of the impact their role has had. In short, we could say the answer to the question should be seen as the product of two factors. First, the way the religious actors can be characterized: this includes things like their strength in numbers and the position they take in the debate. Secondly, a measurement of the extent to which their activities there have been successful. How both factors are operationalized in this thesis will be explained below.

What is a religious actor?

Before starting to define the concept ‘religious actor’, one should ask if in order to do so it is necessary to understand what religion itself is. If the answer is yes, this would make things much more problematic, because religion is an essentially contested concept, and notoriously hard to define. It has so many different connotations, and manifests itself in the world in so many different ways that “practically every proposed definition seems subject to counterexample”. IR scholars Sandal and Fox, in their book on religion in international relations theory, warn that in a study of international politics – such as this thesis – one can, and should, avoid theological definitions. As they say, this is because “we are asking how religion, in its many manifestations, influences international politics. The contexts in which we study religion do not require us to understand religion’s nature, but its translation into the kinds of activities we associate with politics.” For this reason, we will not risk sinking into the swamp that is the task of defining religion, and go straight to tackling the concept of ‘religious actors’.

This ‘tackling’ is easier said than done, however. A quick review of some of the existing literature brings up two complicating factors regarding the concept of ‘religious actors’. The first is that many authors that make use of the term ‘religious actor’ do not give a clear explanation of what they mean. Apparently, they are of the opinion that the concept needs no definition, and that its meaning should be clear enough to the reader. Secondly, those that do give a strict definition, always limit themselves to the discussion of non-state actors. Some examples. Shani restricts his analysis to transnational religious actors, defining those as “any non-governmental actor which

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26 Sandal & Fox (2013): p. 9
27 Examples of this: Haynes (2009); McDuie-Ra & Rees (2010)
claims to represent a specific religious tradition which has relations with an actor in another state or
with an international organization.”

Haynes has limited the religious actors in international relations to state-related religious actors and non-state religious actors. Toft, Philpott and Shah make a distinction between religious actors and ‘political authorities’. Haynes and Hennig say that religious actors may be organized on the national level – as civil society organizations or political parties -, transnationally or supranationally, but do not say anything about the possibility of states being religious actors.

In contrast to the aforementioned examples, this thesis is based on the assumption that state actors can also be regarded as religious actors. Of course, one could argue that there is no state in the modern world whose actions are purely religiously motivated (with the exception, perhaps, of the Vatican). But the same is probably true for many non-state religious actors. Furthermore, to discard states as religious actors in this way is to overlook the important links that exist between states and various religions all over the world. Research has shown that around the world, many states have close ties to religion. This ranges from declaring an official religion (which in itself can have very diverse practical implications) to supporting religions and religious organizations in varying ways. In an extensive analysis of the religion policies of 177 states, Fox demonstrated that 41 of these have official religions, and an additional 44, while not declaring an official religion, support one religion over others. Of course, having an official religion does not tell the whole story, as it would be absurd to place, for example, the United Kingdom and Saudi-Arabia in the same category. However, in some instances, the ties are so strong that religion becomes a ‘policy-defining state ideology’, and in these states protecting or even exporting certain religious beliefs and values can be a foreign policy goal in itself.

It is therefore necessary to formulate a definition that enables us to include state actors. The most practical option is to take an existing definition that would also fit religious state actors. Toft, Philpott and Shah have defined a religious actor as “any individual, group or organization that espouses religious beliefs and that articulates a reasonably consistent and coherent message about the relationship of religion to politics. It is understood that this actor might well be a part of a larger religious entity and might be a collectivity whose members themselves are not unanimous.”

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33 Sandal & Fox (2013): p. 18
to this is the fact that the actor, to be considered religious, should at least make religious statements. The authors are not the only ones to make this distinction: Haynes and Hennig, for example, would agree, as they mention “that the term ‘religious actor’ involves expressing religious and/or political concerns in the public sphere.” Even though they do not say it explicitly, when we look at the definition of Toft, Philpott and Shah in this way it can include state actors, as long as they are clearly using parts of their policy to ‘espouse’ religious beliefs or values. A definition that includes multiple types of actors also solves practical categorization issues. For example, diplomats of the Holy See represent the largest religious institution in the world (the Roman Catholic Church), and a sovereign state (the Vatican City state). Nobody would doubt that the Vatican is a religious actor, so it would be a mistake to intentionally omit it from a thesis like this only because it is also a state actor. And despite its remarkable position, as an actor it fits the definition of Toft, Philpott and Shah perfectly. The same is true for other states that spring to mind intuitively when talking about religious actors, like Iran and Saudi-Arabia. The definition can also be used for intergovernmental organizations like the Organization of the Islamic Conference, and of course, NGOs.

Building on this definition by Toft, Philpott and Shah, we can now discern the different factors that ‘make’ a religious actor. For the purposes of this thesis, to be considered a religious actor an actor should have (1) a clear affiliation with a specific religion, and (2) espouse religious beliefs or express itself in a clearly religious way. Especially the first condition needs further exploration. In order to make a convincing argument, this idea of ‘affiliation’ needs to be operationalized in a clear and measurable way. In the third chapter of the thesis, this will be done by looking at two elements: whether the states have large (>80%)37 majorities of a single religion, and whether they have established severe restrictions on religious freedom, favoring their majority religion over all others. Both these elements can be found in data that has been collected by the Pew Research Center about practically all member states of the United Nations. This gives us the possibility to use reliable quantitative information to determine which states in the debate have an affiliation with a specific religion, and also where in the debate they are positioned. The aspect of religious expressions – or espousing religious beliefs – will be studied trough an analysis of the different debates that have taken place on the subject of LGBT rights. Which debates these are will be discussed in the next chapter.

37 80% is of course a somewhat arbitrary number, but the line has to be drawn somewhere. Setting the marker would have added some countries or removed some others, but as long as the second aspect of affiliation is taken into account, the conclusions would not have changed much. In most of the states that can eventually be seen as religious actors, the majorities are closer to 100% then to 80%.
**Measuring impact**

The goal of the last chapter of this thesis is to assess the success religious actors have had in the political bodies of the UN. The fact that this is an important factor to answering the research question requires little explanation. For the actors, having an effect on the debate means that they not only need to be present, but also must see their goals being realized – at least to some extent. In a sense, this rate of success is even more important than sheer presence in numbers: even actors whose role is small at first sight should be taken very seriously if they manage to successfully secure their objectives. Because the research question centers on the political bodies of the UN, our discussion of impact should also focus on what happens in these bodies.

The use of the word ‘successful’ immediately poses another question: what exactly would ‘success’ mean for actors in the United Nations, and especially in its human rights system? This question is itself not an easy one to answer. An important factor is that the LGBT rights debate is a highly principled one, and many actors are firmly entrenched in their positions. It should therefore be noted that it’s almost never possible to ‘win’ debates like these, in the sense that one party would convince the other of its standpoints, and all would in the end agree to a common position. As Miller and Roseman put it, every form of development in the UN human rights system “falls between the poles of incremental moves forward, or reaffirming existing standards and commitments and refusing to go beyond them.”\(^{38}\) In other words, success should be looked for in incremental changes, or in the lack of these changes. In a situation like this, actors will either seek first to get certain topics on the official agenda, or make sure they do not reach it. They will either try to make the discussion more concrete, or keep it on a basic level. And perhaps most importantly, they will either pursue the adoption of ever more strongly worded decisions and resolutions, or avoid the adoption of new official formulations at all costs.

However, the political human rights bodies do not exist in their own universe: in order to place what actors accomplish in these bodies into perspective, we should also take note of what happens outside of them. For this reason, the final chapter will also discuss developments in the field of LGBT rights in the non-political entities of the UN, and developments in national laws around the world that affect the position of LGBT people. To what extent have these developments been in line with what religious actors have done in the political bodies?

In short, in this thesis, the rate of success of the actors in question will be equated with the extent to which they have been able to influence the course of the ongoing debate within the political bodies. Furthermore, this rate of success should be put into perspective by taking into

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\(^{38}\) Miller & Roseman (2011): p. 113
account the developments in the non-political entities of the UN and developments around the world regarding LGBT-related domestic policies.
Chapter introduction

As has been said in the introduction, this chapter can be seen as an extension of the theoretical framework. However, there are some clear differences between the two chapters. Where the theoretical framework intended to explain how the research question should be read and how it will be answered, the main goal of this chapter is to set the stage for the rest of the thesis, and further explain some of the key concepts. As a consequence, the chapter is mostly descriptive, rather than analytical. First, the concept of human rights will be shortly introduced. This is not the place to give a full account of the many theoretical views on what a human right exactly is – or should be. However, typical for human right is that – in the words of Frohnen and Grasso, they are “so widely discussed and so poorly understood.” This means a short introduction of the subject is – to say the least – not a luxury. To sketch the importance of human rights in the international system, a list of aspects of the contemporary practice of human rights will be discussed. This is followed by an outline of the international human rights regime as it has developed since 1948, and more specifically the system of UN bodies that has come into existence with it. Lastly, the chapter gives an overview of the debate within the UN on the rights of LGBT persons, which is now almost 20 years old.

Human rights and their importance in the international system

In order to create some order in the wide diversity of human rights, scholars and practitioners in the human rights field often divide rights into different categories. The most prevalent of these is the division into civil and political rights, economic, social and cultural rights, and solidarity rights. These groups are also often referred to as three generations of rights. The first category protects the individual before the law and against infringements by the state, and guarantees the ability of each person to participate in civil and political life. In general, these rights can be seen as ‘negative’ rights, since they require nothing but the absence of their violation to be upheld. The second category consists of economic, social and cultural rights. In effect, this group itself may be split in two, whereby social and economic rights help individual social and economic development and self-esteem. Cultural rights, on the other hand, protect sub-national collective identities and cultural affiliations. The last category, solidarity rights, is the newest and most controversial. These rights

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seek to guarantee that all individuals and groups have equal access to public goods, and to the benefits of the earth’s resources.\textsuperscript{41}

Human rights are in fact a very important force in the contemporary international system. They are not merely a philosophical concept, or an interesting topic of discussion, but have very practical influences on the world around us. Clapham has listed seven important contemporary notions surrounding the concept of human rights. In these points, he gives such a concise, but insightful overview of both the importance of human rights debates to contemporary international society, and of the way these debates are currently held, that it is worth the effort to shortly repeat some of them here. Together, Claphams points demonstrate why human rights debates are politically highly relevant in our time. This is as true for domestic policymaking as it is for foreign policy and diplomacy.

In the first place, for many people today the idea that there is such a thing as ‘human rights’ is obvious and self-evident. A consequence of this is that they feel no need to refer to the philosophical sources or foundations of these rights, or explain why we should talk about human rights at all. According to Clapham, “the foundations of the rights regime seem to us so solid that the act of invoking rights in itself makes you seem to be right.”\textsuperscript{42} This phenomenon can create two different problems. Firstly, it takes away the need to explain why certain rights need to be protected; secondly, it creates almost insolvable stalemates in situations where rights are said to conflict with each other. This makes international agreement on human rights issues of course very important.

Thirdly, as a consequence of the previous point, invoking human rights has become the standard way of challenging (national) laws that people feel are unjust. Furthermore, these challenges involving human rights are often accepted as legitimate by national and supranational courts. In the words of Clapham, “human rights law has now developed so that, in almost all states, national law can be challenged for its lack of conformity with human rights.”\textsuperscript{43}

Fourthly, human rights have gained a central position in the international system as ‘instruments for change in the world.’ This means that human rights principles are important in such varied enterprises as development aid, economic or democratic transitions, and post-war reconstruction processes. This makes the development of human rights standards a crucial process, even to actors who are not directly interested in human rights situations.

While Clapham mentions some other phenomena surrounding human rights and the way people speak about them, these three points suffice to show the importance of international human

\textsuperscript{41} Landman (2006): p. 18
\textsuperscript{42} Clapham (2007): p. 17
\textsuperscript{43} Ibid.: p. 18
rights debates. Such debates are necessary to ensure that everyone talks about the same thing when talking about specific human rights, and to make the enjoyment of rights truly universal.

The international human rights regime and the UN human rights system

Around the concept of human rights an extensive international regime has formed. It is not needed to dive deep into regime theory here; for practical purposes, this specific regime may be defined as the system of treaties and other documents of international law under which states have an obligation to respect their citizens’ human rights. This international human rights regime started to form during the aftermath of World War II. Before World War II international law had only governed the relationships between sovereign states. The atrocities of Nazi Germany before and during the war caused many to belief that international law should also apply to the relation between governments and their citizens, or in other words, with the rights of individuals. In the words of Clapham, “the establishment of the United Nations signaled the beginning of a period of unprecedented international concern for the protection of human rights.”

Although the history of human rights is much longer than this, some authors state that to describe the current human rights regime it is not necessary to go back more than 70 years in time. This is because, as Clapham puts it, when “governments, activists or United Nations documents refer to ‘human rights’ today they are almost certainly referring to the human rights recognized in international and national law rather than rights in a moral or philosophical sense.” Landman goes even more into detail when he defines “rights in their contemporary manifestation”, as “a set of individual and collective rights that have been formally promoted and protected through international and domestic law since the UN Declaration of Human Rights in 1948.”

The starting point for this ‘contemporary manifestation’ of human rights was the adoption of the Universal Declaration of Human Rights in 1948. This document was followed by a series of covenants and treaties, ranging from the International Covenant on Economic, Social and Cultural Rights (1969) to the International Convention on the Rights of Persons with Disabilities (2006), which specified and expanded the range of rights the Universal Declaration aimed to protect. Parallel developments occurred in regional organizations, like the Council of Europe and the Organization of American States. In order to monitor and protect these treaties, and to create a platform for the discussion of human rights, an extensive system of more or less specialized bodies has developed over the years.

46 Ibid.: p. 42
47 Ibid.: p. 23
The bodies that are linked to the United Nations may be grouped together as the UN human rights system.

The question where exactly in the United Nations organizational structure human rights debates take place is not as easy to answer as it used to be. During the first decades of the organizations’ existence, human rights discussions were almost entirely contained within a specific and limited set of human rights bodies. Nowadays, virtually all UN bodies and related agencies, from the office of the Secretary-General to the International Monetary Fund, try to incorporate the promotion and protection of human rights into their programs and activities. In other words, human rights have become much more diffused throughout the UN system than they used to be.⁴⁹ This development is partially the result of an intentional effort by the Office of the High Commissioner for Human Rights (OHCHR) called ‘mainstreaming human rights’. The aim of this program is to both

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promote human rights as central to the work of the entire UN system, and to ensure that all different bodies and agencies apply the same human rights standards.\textsuperscript{50}

Despite the diffusion it is still possible to point out a number of bodies that together form the ‘backbone’ of the UN human rights framework. Figure 1 shows these bodies in a drastically reduced organizational chart of the UN.\textsuperscript{51} In the left column there are three so-called principal organ of the UN (the General Assembly, ECOSOC and the Secretariat), and a group of human rights treaty bodies. The latter are placed in the left column because they are independent of other organs. In the right column are bodies that are subsidiary to these principal organs. These are the Human Rights Council and its predecessor, the Commission on Human Rights (abolished 2006), the Office of High Commissioner for Human Rights (OHCHR) and the Office of the Secretary-General. For the HRC, OHCHR and the former UNCHR establishing, defining, promoting and protecting human rights standards are (or were) their core business.

In figure 1, four entities are ‘highlighted’ in blue. These are the so-called ‘political bodies’ to which the research question refers: the General Assembly, ECOSOC, the HRC, and UNCHR.\textsuperscript{52} What makes these bodies stand out as a group? When describing the subject of LGBT rights, the literature almost always makes a distinction between the more legal bodies (in particular the treaty bodies) on the one hand and the more politically focused entities on the other hand.\textsuperscript{53} The difference between them is that the political bodies are forums for debate between member states and NGOs, while the legal bodies consist of groups of independent human rights experts. Because they operate very differently, they have to be regarded separately. The choice to focus on the political bodies here was also made because they operate much more transparently: while the treaty bodies make important verdicts regarding human rights issues, they do not debate these decisions publicly. In the following paragraphs, all human rights bodies will be shortly described, starting with the political bodies.

The most authoritative body in the UN human rights system is without doubt the General Assembly. This is mainly because unlike the HRC, which is a subsidiary body of the Assembly, all UN member states have a vote in the GA. This means that resolutions it adopts, truly do reflect the position of the majority of the world’s governments. Obviously, the GA concerns itself with a very extensive range of issues, so human rights are not always central to its agenda.

The HRC is the central ‘charter-based’ human rights body in the United Nations system. The council has 47 members, all UN member states, which are elected to staggered three-year terms. To

\begin{itemize}
\item \textsuperscript{50} OHCHR, Mainstreaming human rights. http://www.ohchr.org/EN/NewYork/Pages/MainstreamingHR.aspx
Accessed 29-11-2013
\item \textsuperscript{51} Based on the official organizational chart as published on:
\item \textsuperscript{52} ECOSOC in its entirety does not play a role in its thesis. However, it should be mentioned since UNCHR was a sub-commission of ECOSOC. By definition ECOSOC has to be categorized as a political body.
\item \textsuperscript{53} See for example: Saiz (2004), Miller & Roseman (2011)
\end{itemize}
prevent any regional bias, there is a fixed number of members per region.\textsuperscript{54} Members of the council have the exclusive right to vote on the adoption of resolutions. UN member states that are not currently members of the HRC can however attend all meetings as observers, and also have the right to make statements about the different subjects under discussion. The same is true for representatives of certain IGOs, most prominently the European Union, and a substantial number of NGOs. The HRC convenes three times a year in sessions ranging from two to four weeks, but can also meet in special sessions for the discussion of urgent human right situations around the world. A recent example of a situation that has been discussed multiple times in special sessions is the crisis in Syria and its effects on human rights. The HRC is a relatively young body: it convened for the first time in 2006. Its predecessor within the UN system, the UNCHR, was abolished because it suffered from a very high level of politicization. By it had come under heavy critique from both governments and NGOs for such actions as electing Libyan dictator Khadafy as its chairman. It was considered to have become extremely politicized and ineffective and was therefore replaced by a body with a different set-up. An important change was to move the central human-rights forum from its position as a sub-commission of ECOSOC to a place under the responsibility of the General Assembly.

The High Commissioner for Human Rights and the Secretary-General, both operating with the help of their respective Offices, are of course no forums for debate, but can be seen as actors in themselves. However, they are also part of (and represent) the UN organization, which distinguishes them from states and NGOs. While the mission of promoting human rights effort lies mainly with OHCHR, secretaries-general have the freedom to take up this role as well, which they have often done in recent years.\textsuperscript{55}

Human rights treaty monitoring bodies – in short: treaty bodies – are committees of independent experts that monitor the implementation of international human rights treaties. These treaties supplement the Declaration of 1948 on specific issues. UN member states are of course free to choose whether they join these treaties or not. If they do, they promise to protect the rights described in the different treaties, and subject themselves to scrutiny by the relevant treaty bodies. The committees examine the reports of governments on how they fulfill their human rights obligations. Usually, this involves a public dialogue with government representatives, and a list of concluding observations or remarks by the committee members.

A last remark should be made with regards to the discussion of human rights in the UN setting. The officially established bodies described are of course not the only platform for such debates. Much discussion among actors takes place on an informal level: in meetings organizes by

\textsuperscript{54} The five regional groups are: Africa, Asia (including most of the Middle East), Latin America & the Caribbean, Eastern Europe (including the Russian Federation), and the 'Western European & Other States group'.

NGO’s or diplomatic delegations, or even in the hallways and coffee bars of UN buildings in New York and Geneva. These occasions are very important for the preparations of the formal sessions. The problem with this type of discussion is of course – not in the last place from a scholarly point of view – that it lacks transparency, and the only way to get a clear view of them is to get first-person accounts from the actors involved. However, for our purposes, we can ignore this fact if we assume that what happens in the official meetings is eventually always a reflection of what has happened in preparatory discussions.

**Actors in the UN human rights system**

Another thing that needs to be discussed in this chapter is the range of actors active in the UN human rights system. They should not only be described, but of each the question can also be asked if they could – even hypothetically – be religious actors. This will help us in focusing on the relevant actors in the following chapters. The aim here is not to point out individual actors as religious, but to see whether different types of actor can fit into this definition. The three types of actors described here are the UN organizational actors, which have also been described above, NGOs and states.

The first of these are the actors which are part of the UN itself. In our case, these are especially the the Secretary-General, the High Commissioner for Human Rights, and their respective offices. In order to stay neutral, the UN of course refrains from any official religious affiliations. Of course, as private persons these individuals may – and by all odds do – have religious beliefs. But even if we could find out more about these believes, this does not mean we can see them as religious actors. It is not likely they would espouse those beliefs or express themselves religiously in another way while in function. For this reason, it is not necessary to be taken this group of actors into account as possibly religious actors.

A second type of actors form the NGO’s that are accredited to speak in different UN human rights bodies. They nave have the right to vote, but are allowed to make statements in public meetings. According to Haynes, the number of so-called faith-based organizations (FBO, the term Haynes uses for religious non state actors) active within the UN exceeds 300.\(^{56}\) It should be noted that while this number includes non-civil society entities like the Holy See and the OIC, the majority consists of religious NGOs. Based on this count, it is beyond doubt that there are religious actors to be found among the NGOs active in the UN human rights system. Perhaps one could even argue especially in the human rights system, keeping in mind the intrinsic connections between religious beliefs and human rights. As was said in the methodology section in the introduction, this thesis only

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looks at those NGOs that are visibly active in the political bodies, and does not account for any behind-the-screens lobbying activities they employ.

The third type, and the most important, is of course the state actor. Despite the activity of NGOs, states are still central players in the human rights system, and have been called “the ultimate arbiters of human rights”. This has a number of reasons. Firstly, practically the only form of ‘hard international law’ is the treaty between sovereign states. Furthermore, the UN is still in the first place an organization of states. This means that state actors – at least officially – have the most important roles. All important decision-making is done through voting by delegates of member states, in the General Assembly as well as in the Human Rights Council. In short, human rights debates discussions in the UN are still very much a game between states. In the theoretical framework, it was already stated that the idea that states can be religious actors – contrary to what many IR scholars seem to believe – is one of the key assumptions of the thesis. The reasons for this assumption were also explained. Therefore, it is not necessary to discuss this any further here.

**LGBT rights at the UN: a short overview**

The last concept from the research question that needs further explaining is ‘LGBT rights’. What kind of rights are they, and why are they the subject of debate? To start with the term ‘LGBT’: the acronym stands for Lesbian, Gay, Bisexual, Transgender. Thus, LGBT persons (or LGBTs) are all individuals that consider themselves to be part of one or more of these groups. It should be noted that the term is not often used within the official United Nations setting – often more concrete problems are described, such as discrimination or violence ‘on grounds of sexual orientation and gender identity. Nevertheless, ‘LGBT rights’ can be seen as the subject of each event discussed in this thesis.

The field of LGBT rights is often seen as part of a larger field of ‘sexual and reproductive rights’. These rights, and the claims to them, are highly diverse and cover economic rights, privacy rights and the freedom from discrimination and abuse in public and private life. Starting off, it is important to notice that there is no explicit reference to a right to be free from discrimination on the grounds of sexual orientation or gender identity in any human rights treaty. This means that any position on the subject taken so far by a UN human rights body has been based on interpretations of existing human rights documents and treaties.

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57 Miller & Roseman (2011): p. 106
Thus, when speaking about LGBT rights as a subject of human rights debates, people usually mean the human rights situation of LGBT persons. The idea is that these people should enjoy the same rights as any other person, both as individuals and as a group. In other words: LGBT rights are not rights only LGBT persons have. LGBTs do not, in general, claim specific rights as a group. Instead, they (and of course many non-LGBT human rights activists) argue that they are not sufficiently protected from violations of existing, universal rights. Among the rights they consider to be violated are the right to be treated with equal dignity as other human beings, the security of their persons, the freedom from discrimination (on grounds of sex), the right of movement and residence within their countries, and their right to privacy.\(^{58}\)

In the following section, the major developments in the two groups since the mid-1990s are shortly listed. It should be noted that this is not an exhaustive list. Rather, it is a series of key moments, most of which have been noted in the existing literature, which together give a good overview of the development of the debate.

The subject of the rights of LGBT people was first taken up in the legal branch of the UN human rights system. In March 1994, the Human Rights Committee (the treaty body monitoring the International Covenant on Civil and Political Rights, or ICCPR), in the case of *Toonen v. Australia*, found that Tasmanian laws criminalizing all sexual relations between men were in breach of the ICCPR, whose non-discrimination provisions were interpreted as including ‘sexual orientation’.\(^{59}\) This case is often referred to as ground-breaking, because it was the first time a UN body recognized sexual orientation as a ground for discrimination forbidden by international law. According to Lau, “*Toonen* stands for the fact that, although the ICCPR does not expressly mention sexual orientation, sexual orientation rights are embedded in the treaty’s language.”\(^{60}\) Since *Toonen v. Australia*, more entities in the ‘legal branch’ of the UN human rights system followed the logic of the Human Rights Committee. Many of the individual treaty bodies have by now recognized that their respective treaties – among which the International Convention on Economic, Social and Cultural Rights, the Convention on the Elimination of Discrimination Against Women and the Convention on the Rights of the Child – also protect sexual minorities, even though the treaties do not explicitly mention those.\(^{61}\)

The use of terms like ‘sexual orientation’ and ‘gender identity’ by the treaty body committees has gradually become less controversial. However, from the perspective of this thesis, the discussion of the subject in the more political entities of the UN is more interesting. Debates in these bodies are often more intense, and also much more transparent. While the discussions of the treaty body committees in majority take place behind closed doors, and only their published reports


\(^{60}\) Lau (2004): p. 1700

\(^{61}\) Ibid: p. 1702
and other texts reveal something about the development of their position, the resolutions of, for example, the HRC and the General Assembly are at least partly a product of open deliberations.

Not long after *Toonen v. Australia*, sexual orientation first became a point of discussion in a more political global forum: the Fourth World Conference on Women, held in September in 1995 in Beijing. The draft Platform of Action, which was to become the outcome of the conference, originally contained four references to the persecution of women on grounds of their sexual orientation. Neither of these made it into the final texts after opposition by the Holy See and a number of Islamic states, supported by organizations representing the (mainly American) Christian right. In their words, sexual orientation was a “non-subject”, the discussion of which would lead to the discussion of many more unacceptable behaviors. Arguments like these would also, as we will see later on, become important in the UNs permanent political forums. Battles over bracketed texts on sexual orientation in human rights documents occurred again in the following years. At the 2001 UN World Conference Against Racism in Durban, South Africa, a proposal was made by Brazil to “acknowledge that individuals who are victims of racism, racial discrimination, xenophobia and related intolerance in many cases may also face discrimination based on sexual orientation”[^63]. This sentence remained bracketed until the last day and was eventually deleted from the text.[^64]

It was not until 2003, the starting point of the enquiry of this thesis, that the rights of LGBT persons as were first brought up in a charter-based body of the UN as an independent human rights issue. In this year, Brazil tabled a draft resolution on the subject in the UNCHR, co-signed by Canada and almost all Western European countries. The resolution stressed that “the enjoyment of [human] rights and freedoms should not be hindered in any way on the grounds of sexual orientation”[^65], and called upon all states to act accordingly. While the resolution was quite modestly formulated, and did not call for the creation of new standards or mechanisms, it met with fierce resistance, especially from the members of the Organization for Islamic Cooperation.[^66] The text was described by Pakistan as an insult to Muslims around the world, and multiple member states of the Organization of Islamic Conference proposed deleting all reference to sexual orientation in the resolution, which would obviously have stripped it of its entire meaning. Brazil decided not to bring the resolution to a vote, and it was postponed to the 2004 session. During that session it became eventually clear that again the resolution would not pass, and it was eventually retracted.

[^63]: A/CONF.189/Corr.1
[^64]: Saiz (2004): 59
[^65]: E/CN.4/2003/L.92
In 2008 the human rights position of LGBT persons was first brought up in the General Assembly. A statement condemning violence based on sexual orientation, sponsored by France, won the support of 66 countries, mostly from Europe and the Americas. In the following months, this number would grow to 94, as the declaration also gained support from a number of Asian and African states. To be clear, this statement would not have been binding in any way, even if it had been supported by a majority of members. Opposition came in the form of an anti-declaration, which was almost exclusively supported by OIC members and African states. The delegate of the Holy See declared that the French statement “challenges existing human rights norms”. 67

It was not until 2011 that the first UN resolution on the human rights of LGBT persons, introduced by South Africa, was passed. This happened in the HRC, with a vote of 23 against 19. The document not only expressed “grave concern at acts of violence and discrimination [...] committed against individuals because of their sexual orientation and gender identity”, it also requested the UN High Commissioner to prepare a report on the subject and decided to convene a panel discussion during the 19th session of the council, a year later. 68 This panel discussion would be the one described in the introduction of this thesis. Despite being the first time that a UN body held a formal, planned debate on the subject, the orchestrated walk-out of IOC and African delegations clearly showed that the passing of a resolution would not mean that resistance against discussing the rights of LGBT persons was fading.

The four events that were last mentioned above ( ) will return later in the thesis, as they will be analyzed in the next chapter.

Chapter conclusion
As was already announced, this chapter has been mostly descriptive and stage-setting. Therefore, this conclusion is essentially a recapitulation of the most important facts. First, human rights are a very important force in contemporary politics, both domestic and international. Human rights are often used as a measure for all kinds of regulation, and as a condition for international aid or cooperation. For this reason, ongoing international dialogue on what human rights are and how they are to be enforced is critical. Such discussions take place within an extensive regime, of which the UN human rights system is an important part. The UN human rights consists of a number of organs with different roles. A number of these are forums for discussion, which can be called the ‘political bodies’ of the system, while the different human rights treaty bodies form the ‘legal’ or ‘expert’ branch. In this thesis the ‘political bodies’ are central, because they are the true forums of debate between a

68 A/HRC/RES/17/19
wide range of actors, and operate much more transparently than the legal bodies. The bodies that will be relevant for the next chapters are the General Assembly, the Human Rights Council (HRC) and the former UN Commission on Human Rights (UNCHR). The subject of LGBT rights has received attention in the UN since the early 1990s, but didn’t enter the political branch of the system until 2003. Since then, it has returned to the agenda of these political bodies every now and then, and it is these events that will be central in the next chapter.
Chapter introduction

While the two previous chapters were necessary to lay down theoretical foundations and explain the specific context setting of the LGBT rights debate, this one can be seen as the actual core thesis. It will answer the question to what extent the actual practice of debating and voting on LGBT issues in the UN human rights bodies suggest that religious actors play a prominent role. In the first chapter, it was established that religious actors should have a clear affiliation with religion, and express themselves in a religious manner. This chapter aims to see how many actors fulfill either or both of these conditions.

The first section analyzes the religious affinities of state actors in the debate. To do this we will take a closer look at two of the most crucial moments in the UN debate on LGBT rights so far: the declaration by Argentina and its ‘counter-declaration’ in the General Assembly in 2008, and the resolution tabled by Brazil in the HRC in 2011. The reason why only those specific events were selected is simple: they are the only moments when a document on LGBT rights was voted on. Analyzing the divisions of votes on both occasions will provide insight in to what exactly binds the actors on different sides of the debate. Do they have anything in common that might explain their stance towards LGBT rights? And if so, is affiliation with a specific religion one of these binding factors? This affiliation – or lack thereof - will be revealed by looking at religious majorities and religious policies of the respective states, as was already explained in the theoretical framework.

The second section of the chapter does not look at the naked numbers and ‘demographics’, but contains an analysis of the arguments used by different actors to see whether they express themselves in a religious manner. The focus will in particular be on the actors on the ‘opposing side’ of the debate. The latter restriction is possible because, as we will see, this is the side on which religious actors – based on the condition of affiliation - can be expected to play a significant role. The question of course is to what extent the arguments actors use can be characterized as religious. In other words: what role does religion appear to have if one simply reads and listens to the actors’ official words?

Together, these two sections will give us an idea of how big the group of religious actors is (based on either or both of the two conditions), and what their position in the debate is.

69 The 2008 declarations in the GA were not officially voted on in a voting procedure. However, many states did officially choose sides by aligning themselves to either declaration. These alignments can for our purposes be seen as votes.
Religious affiliation – analysis of divisions of votes

2008 General Assembly declaration

On 18 December 2008, Argentina’s representative to the UN in New York made a statement in the General Assembly (from here: the Argentinian declaration) condemning “human rights violations based on sexual orientation or gender identity wherever they may take place (...)”70. What makes this declaration special is not only the fact that it was the first time the GA discussed the human rights position of LGBT people, but also that it was countered by an opposing statement, made by Syria and supported by a number of other states. This opposing statement affirmed the equal rights of “men and women without distinction”, but also expressed the “disturbance” of the supporting states at the “focus on certain persons on the grounds of their sexual interests, while ignoring that intolerance and discrimination regrettably exist in various parts of the world, be it on the basis of color, race, gender or religion”71. The fact that two contrasting statements were made meant that both supporters and opponents of the Argentinian declaration had the chance to make their positions clear.

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<tr>
<th>TABLE 1</th>
<th>Africa</th>
<th>Asia</th>
<th>Other</th>
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<tbody>
<tr>
<td>Argentinian declaration</td>
<td>10</td>
<td>7</td>
<td>77</td>
</tr>
<tr>
<td>Opposing statement</td>
<td>29</td>
<td>23</td>
<td>2</td>
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To get a first idea of how divided the GA was in this case, table 1 shows the support for both statements by states from different regions of the world. The Argentinian declaration has been officially supported (one could say signed) by 94 states. These include the great majority of countries from the Americas, Europe and Oceania. In contrast to this, Africa and Asia are underrepresented, with only 10 and 7 signatories respectively. The opposing statement has 54 signatures. Of these states, 29 are African, 23 Asian, and one each from the Americas (Saint Lucia) and Oceania (the Solomon Islands). No European states have signed.

70 A/63/PV.70: p. 30
71 A/63/PV.70: p. 31
What is more important to our question is that the contrasts between the two lists of signatures become even more noteworthy if we start looking at religious affiliation. This can be done by using two different data sets from the Pew Research Center. In table 2, the states who have supported either of the two declarations are divided into three different groups: those with a muslim majority of 80 percent or more, those with a Christian majority of eighty percent or more, and those with a large majority of another religion or with no majority of 80 percent or higher. This was done by using data from the Global Religious Landscape survey, done by the Pew Research Center in 2010. Among the 94 states that have signed the ‘Argentina declaration’ there is only one with a large muslim majority: Albania. Among the 54 co-sponsors of the opposing statement, the number of Muslim-majority states is much higher: 35. On a side note: of the total of 54 states that have supported this statement, 42 are members of the Organization for Islamic Cooperation – this includes states without a Muslim majority, like Cameroon and Nigeria. Membership of the OIC is an interesting factor, because in the LGBT-rights debate, statements are often made on behalf of all members of this organization. Interestingly, if we look at Christian majority states, the image is practically reversed. 59 of the 94 supporters of the Argentinian declaration are in this group. Of the supporters of the opposing statement, that division is 7 to 54.

<table>
<thead>
<tr>
<th>TABLE 2</th>
<th>&gt;80% Muslim</th>
<th>&gt;80% Christian</th>
<th>Other/No 80% majority</th>
</tr>
</thead>
<tbody>
<tr>
<td>Argentinian declaration</td>
<td>1</td>
<td>59</td>
<td>34</td>
</tr>
<tr>
<td>Opposing statement</td>
<td>35</td>
<td>7</td>
<td>12</td>
</tr>
</tbody>
</table>

While the division in table 2 is interesting, religious majorities do not say everything. Anyone would agree that even though Iceland and Iran both have large religious majorities – Christian and Islamic, respectively - of more than 95% of their total populations, they can clearly not be said to have the same attitude towards these religions as state actors. So in order to determine which of the opposing groups of 2008 one might expect to find the most religious state actors, another variable

<table>
<thead>
<tr>
<th>TABLE 3</th>
<th>High or Very High score</th>
<th>Low or Moderate score</th>
</tr>
</thead>
<tbody>
<tr>
<td>Argentinian declaration</td>
<td>6</td>
<td>86</td>
</tr>
<tr>
<td>Opposing statement</td>
<td>35</td>
<td>19</td>
</tr>
</tbody>
</table>

72 80% is of course a somewhat arbitrary number, but the line has to be drawn somewhere. Furthermore, setting the marker at 75% or 85%, for example would have either added countries like Spain (78,6% Christian) or removed countries like Ukraine (83,3% Christian), but the conclusions would not have changed much. In most of the states in question the majorities are closer to 100% then to 80%.

has to be added. This can be done by using another Pew Foundation data set, this time on governmental restrictions on religion. This set measures the extent in which states restrict the religious freedom of their citizens. Pew has divided states into four different groups, with Low, Moderate, High or Very High scores. The division is based on aggregate count of a number of regulations that restrict freedom of religion in some way, ranging from fiscal support to specific religious denominations to severe punishments on blasphemy and apostasy. Obviously, states with higher scores have more such restricting regulations; states with lower scores have less. It should be noted that the group of ‘Low’ scoring states is by far the largest, followed – in that order – by the groups of Moderate, High and Very High scoring states. Table 3 shows the supporters of both 2008 statements separated by their respective scores. The resulting division is interesting. In short, within the group of states that supported the Argentinian declaration, there are only a handful who put high restrictions on religious freedom. Of the group that supported the opposing statement, almost two-thirds have such restrictions. That outcome should not be surprising if we look at which states Pew gives High or Very High scores. Practically all of those in the ‘Very High’ group, and the majority of those in the ‘High’ group are Northern-African or Asian states with large Islamic majorities. With the exception of a small number of African states, there are no Christian-majority states that have a High or Very high level of governmental restrictions on religion.

On a side note, it is important to notice that several very important state actors are missing from both lists of supporters. Among these are key players in the United Nations, like Security Council members Russia and China, and also states with very large single-religion majorities like India and Turkey. This means they have not deemed it necessary or useful to make their preference public. This can probably be seen as an indication that the subject is not very important to them.

2011 HRC Resolution
Before looking at the voting record of the 2011 HRC resolution on ‘Human rights, sexual orientation and gender identity’, introduced by South Africa, it should be noted that due to the organizing structure of the HRC, the distributions of votes in this body cannot be directly compared to those in the General Assembly. While in the latter body, every UN member state has a vote, voting rights in the HRC are limited to its members. Besides, the membership of the HRC is proportionally distributed among the regional groups. This makes it impossible for, for example, all the members of the OIC to cast their votes together. This being said, the document in question is especially important because it was – and is – the only UN resolution on LGBT rights that actually was brought to a vote. The resolution passed with 23 votes to 19, with 3 abstentions. While this is not an overwhelming victory,
one can easily see why the moment was marked as historic by human rights activists. Most of the members of the HRC voted along the same lines as they had maintained in the General Assembly in 2011. The only state completely reversing its position was Gabon, which had supported the ‘Argentina-declaration’ in support of LGBT rights, but voted against the HRC resolution. Both Russia and Angola had not supported either of the declarations in the GA, but also voted against the resolution. There were no states that changed their position in favor of the resolution.

<table>
<thead>
<tr>
<th>TABLE 4</th>
<th>Africa</th>
<th>Asia</th>
<th>Others</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>1</td>
<td>3</td>
<td>19</td>
</tr>
<tr>
<td>No</td>
<td>9</td>
<td>8</td>
<td>2</td>
</tr>
<tr>
<td>Abstention</td>
<td>2</td>
<td>1</td>
<td>-</td>
</tr>
</tbody>
</table>

Just as was the case with the GA declarations of 2008, the lists of votes in favour and against gain meaning when looking at both the geographical situation of the signers, and the majority religions of their populations. And, because many states retained their earlier positions, there are many similarities between the two cases. Table 4 once more makes a separation of votes between different regions. Of the 23 states in favor of the resolution, all were either European or American, with the exception of Japan, South Korea, Thailand and Mauritius. This means that no African or Middle-Eastern members of the Council supported the resolution: almost all of them voted against.

<table>
<thead>
<tr>
<th>TABLE 5</th>
<th>&gt;80% Muslim</th>
<th>&gt;80% Christian</th>
<th>Other/No 80% majority</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>-</td>
<td>13</td>
<td>10</td>
</tr>
<tr>
<td>No</td>
<td>11</td>
<td>3</td>
<td>5</td>
</tr>
<tr>
<td>Abstention</td>
<td>-</td>
<td>1</td>
<td>2</td>
</tr>
</tbody>
</table>

Table 5 separates the votes into the same Muslim-majority, Christian-majority and ‘other’ groups as was done above. It is striking that there were no Muslim-majority states among the supporters, but among the nineteen opponents they form the majority. In fact, only two of these nineteen nations are neither predominantly Islamic nor African: the Russian Federation and the Republic of Moldova.

Miller & Roseman (2011): p. 111
As table 6 shows, applying the dataset with scores on government restriction on religion\textsuperscript{76} to the 2011 situation results once more in an image similar to that in 2008. All those in favor of the resolution have Low or Moderate levels of restriction, while the majority of the no-voters has High or Very High scores. While the image is somewhat distorted because of the limited voting rights in HRC, we can clearly recognize (a part of) the same oppositional core group of Islamic-majority states with severe restrictions on religious freedom. In this way, the vote on the 2011 HRC resolution affirms and strengthens what has already been concluded above: religious state actors can be assumed to play a significant role in the opposition to LGBT rights.

‘Filtering’ the division of support for both event with the Pew datasets enables us to conclude the following. The group of UN members that supported both the statement opposing LGBT rights in 2003 and voted against the 2011 HRC resolution contains a core of states with both very large Islamic majorities and many restrictions with regards to freedom of religion. This combination makes it highly likely that these states – in contrast to for example China, which is restrictive on religion but doesn’t have a large religious majority – strongly favor a specific religious denomination and use their policymaking possibilities to support that religion. In other words, these are the states that fill the condition of religious affiliation. In turn, this makes it much more likely that they will behave as religious actors. On the other hand, on the other side of the debate there are many states with large Christian majorities, but very few with high restrictions on religion. When we add to this the idea, formulated in the previous chapter, that demanding greater freedom with regard to human sexuality will rather be contradicted than supported by religious beliefs, we can fairly safely assume that religious actors are much likelier to be found on the opposing side of the debate.

### Religious expression: analysis of arguments

Now that we have discussed the religious affiliation aspect of religious actors, we can look at the extent to which they express themselves religiously. In order to do this, we need to look closer at what the actors involved have said at different times. In this section, this will be done for a number of events in the larger debate on LGBT rights in the selected UN bodies. While these bodies have (or

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\textsuperscript{76} Pew Research Center (2013)

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<table>
<thead>
<tr>
<th>High or Very High score</th>
<th>Low or Moderate score</th>
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</thead>
<tbody>
<tr>
<td>Yes</td>
<td>-</td>
</tr>
<tr>
<td>No</td>
<td>7</td>
</tr>
<tr>
<td>Abstention</td>
<td>1</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>High or Very High score</th>
<th>Low or Moderate score</th>
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<tbody>
<tr>
<td>Yes</td>
<td>23</td>
</tr>
<tr>
<td>No</td>
<td>7</td>
</tr>
<tr>
<td>Abstention</td>
<td>2</td>
</tr>
</tbody>
</table>
had) different rules regarding membership and voting rights, all UN member states have the right to make statements regarding all topics on the agendas of these bodies. Therefore, the statement made on different occasions can be effectively analyzed together, while the comparison of voting records had to be separated. This part of the chapter covers a larger number of events than the first, because in some cases there was no vote or other form of ‘side-picking’, but actors did have the opportunity to make statements on the subject. As was announced in the previous chapter, the specific events under scrutiny are the discussion of the Brazilian resolution in the UNCHR in 2003, the debate around the two declarations in the General Assembly in 2008, the discussion about the HRC resolution of 2011 and the resulting panel discussion in 2012. These are also the only four times the subject was discussed in the political bodies. However, we will not look at these events chronologically, but regard them as one ongoing debate.

Through an analysis of available statements, a number of distinctive arguments or argument types can be ‘distilled’.\(^{77}\) In the following list these arguments are ordered – *grosso modo* – by the frequency they seem to have been used in the General Assembly, the UNCHR and the HRC between 2003 and 2013.\(^{78}\) Opponents claim they are against the official recognition and condemnation of human rights violations on grounds of sexual orientation and gender identity, because:

- the concepts used in the discussion (e.g. ‘sexual orientation’) are ambiguous and not properly defined in human rights law.
- it would create new rights which are not widely recognized by the international community, and this would undermine the international human rights regime
- it would be in conflict with certain religious values or traditions
- it would impose culturally or regionally specific values on other cultures and regions
- the entire discussion creates division and discord within the human rights bodies
- it would mean a shift of focus, away from more pressing or important human rights issues
- it would create a slippery slope, opening the door to the protection of other, even more controversial sexual practices (e.g. pedophilia or bestiality).

Of course, these arguments are not absolutely exclusive. In many cases, there is an overlap between two or more of them. Nevertheless, it is possible to make a division like this without. In the following

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77 For the full list of used documents, see the Sources section of the thesis, under ‘UN Documents and individual statements made available by UN bodies.’
78 A few side remarks about this frequency should be made. When exact numbers would be given for argument type, we run the risk of being misleading. While a count has been made using available documents, there can be no guarantee the list is exhaustive. Not all statements are made available literally, and some that are are only available in Arab. Furthermore, many subtleties can be lost in the shortened and paraphrased official reports and in UN live interpretation. The following things can be said: because the number of opportunities for actors to give their opinion on the subject has been small, and the number of active actors in the opposition is also quite small, the total frequencies of these arguments are quite low. The highest one in the list has been recognized about 12 times, the lowest only two times.
subsections, we will take a closer look at each of these argument types in order to gain more insight in the viewpoints of the opposition. When where they used, in what exact terms, and by whom? The overlying aim is of course to find out which – and if so, to what extent – arguments used can be seen as expressions of religion.

*Ill-defined or ambiguous concepts*

The most prevalent argument the opponents use is their objection to the introduction of the concepts “sexual orientation” and “gender identity” as such into the UN human rights framework, because these concepts have no official definition in existing human rights documents. Practically every actor speaking or writing in opposition to the recognition of LGBT rights has used this argument. It was part of the Syrian declaration made in the GA in 2008: “...we are seriously concerned by the attempt to introduce into the United Nations some notions that have no legal foundation in any international human rights instrument.”

On the same occasion put forward by the Holy See: “...the categories ‘sexual orientation’ and ‘gender identity’, used in the text, find no recognition or clear and agreed definition in international law.”

The same argument, although often in slightly different words, has been used in the HRC. In 2011, the OIC explained that its members had voted against the South African resolution because of this very reason, using the exact same words from the Syrian opposing statement of 2008.

Apart from the idea that the words have no legal foundation, actors have also described them as being ambiguous.

A written statement submitted by a coalition of Roman-Catholic NGO’s (amongst which the International Federation of Catholic Charities – Caritas Internationalis and the World Union of Catholic Women’s Organisations) for the panel discussion on the subject in the HRC stated that “the term ‘sexual orientation’ is both ambiguous and confusing; it is not defined in international law.” On the same occasion, the same argument was used (again) by the OIC, the African Group, the Arab Group, the Holy See and a number of other individual countries.

If actors object to the use of certain words, it would of course be strange if they used them themselves. As a result, delegations have employed multiple strategies to distantiate themselves from the use of the words they object to. In this way, they probably try to prevent that their own use of the concepts can later be constructed as their recognition of them. One way, of course, is to

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79 A/63/PV.70
80 A/63/PV.71
81 Explanation of vote by Pakistan, on behalf of the OIC Member States, on resolution entitled “Human Rights, Sexual Orientation and Gender identity”, during the 17th session of the Human Rights Council, Geneva 16/17 June 2011.
82 A/HRC/19/NGO/43
prevent mentioning terms like ‘sexual orientation’ at all. As everyone present is already aware of the subject of the discussion, this is often possible without creating great confusion. When listening to or reading the statements of both opponents and supporters of recognition of the problematic human rights conditions of LGBT people, it is often remarkable how much more the supporting parties use words as ‘sexual orientation’, ‘gay’, or comparable terms. Another strategy that has been used is the use of “so-called” (or its equivalent in one of the other official UN languages) as a form of prefix to the concepts. For example, in 2008, the Syrian delegate to the General Assembly, spoke (on behalf of all OIC member states) in opposition to the Argentinian declaration “on human rights and the so-called notion of sexual orientation and gender identity.”

It should be noted that the extent to which the actors evade mentioning terms like sexual orientation themselves varies greatly. The statements of the Holy See, for example, often begin with a recognition that no one should suffer violence or other forms of abuse on grounds of their sexual orientation. In other words, they recognize that there is a problem, but do not think the UN human rights system is the right place for dealing with it. Others seem to completely deny that there is such a thing as ‘sexual orientation’.

Introduction of new rights for specific groups

The idea that condemnation of human rights violations on the basis of sexual orientation or gender identity would establish a completely new set of rights was one of the first arguments opponents used. Apparently, this is not an argument against LGBT-rights as such, but against the practice of interpreting existing human rights documents to specific, previously unmentioned, categories of people. This argument was already formulated in the UNCHR in 2003, by the Pakistani delegate, speaking on behalf of the entire OIC, after Brazil had introduced its groundbreaking resolution on the subject. Pakistan argued that accepting such a resolution could lead to many countries suddenly appearing to be in violation of human rights law, and that this could “seriously jeopardize the existing human rights framework.” On the occasion of the 2008 GA declarations, the ‘counterdeclaration’ made by Syria stated: “We note with concern the attempt to create new rights or new standards by misinterpreting the Universal Declaration and international treaties [...].”

In 2012, the same line of thinking was used in a written declaration by the Holy See, warning that “efforts to particularize or to develop special rights for special groups of people could easily put at risk the universality of such rights.” On the same occasion, a large group of catholic NGO’s

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83 A/63/PV.70: p. 31
84 E/CN.4/2003/SR.61: par. 60
85 A/63/PV.70
86 Statement by His Excellency Silvano M. Tomasi, Permanent Observer of the Holy See to the UN and other International Organizations in Geneva, at the 19th Session of the Human Rights Council – Item. 3 – General
expressed its concerns that the discussion “would lead to the creation of new norms and rights, which, in turn, would lead to conflict between such ‘new rights’ and those long recognized in existing international and national law and policies.”

The ‘religion argument’

The argument that condemnation of any discrimination on grounds of sexual orientation might conflict against certain religious values or traditions has been used multiple times. Its use, however, seems to be quite recent as the reference to religion did not enter the debate before 2012. It is not clear why it did not come up before, since a number of actors one would expect – based on their affiliation – to base their position on religion (at least partly) has been active in the debate since the beginning. Prime examples are the OIC and its member states, but also the Holy See. In 2012, the argument has been put forward by both Christian and Islamic actors. However, its different occurrences vary in terms of formulation.

Some of the statements try to make clear that the subject is at odds with religious teachings in general, without referring to the specific religion of the speaker. This was done in the written statement of the Holy See’s representative in the HRC in March 2012. The statement argued that the HRC “might be running the risk of demeaning the sacred and time-honoured legal institution of marriage between man and woman, between husband and wife, which enjoyed special protection from time immemorial within legal, cultural and religious traditions and within the modern human rights instruments.” A slightly different wording can be found in the statement from the same time by the catholic NGOs. It expressed the concern that introduction of LGBT rights into the UN system would be at odds with “religious and moral heritages that cannot accept certain sexual practices even though they respect the inherent dignity of persons who engage in them.” The organizations were also worried that “the application potential laws and policies purportedly designed to protect ‘sexual orientation’ and ‘gender identity’ [...] might even criminalize such religious beliefs and practices.”

What connects the formulations above is that they seem to distance themselves from any specific religious system, although it is more than clear that all the actors involved base their

87 Debate and Panel Discussion on “Discriminatory Laws and Practices and Acts of Violence against Individuals based on their Sexual Orientation and Gender Identity”: par. 4
89 A/HRC/19/NGO/43
90 Ibid.
standpoints on the tenets of Roman-Catholicism. Other actors have expressed their religious reservations more explicitly. The OIC, for example said that

... while considering the issue of human rights, national and regional particularities and various historical, cultural and religious backgrounds must be borne in mind. Licentious behavior promoted under the concept of ‘sexual orientation’ is against fundamental teachings of various religions including Islam. From this perspective, legitimizing homosexuality and other personal sexual behaviors in the name of sexual orientation is unacceptable to the OIC.91

Saudi-Arabia said something along the same lines, declaring that these “behaviors are in conflict with Islamic Sharia law.”92 All in all, the reference to religious concerns, which would seem so crucial to a lot of actors with religious affiliations, has been used very sparsely.

*Imposition of non-universal values*

During the discussion of the 2011 HRC resolution, the OIC – represented by Pakistan – referred to the Vienna Declaration, stating that states had agreed to bear in mind “national and regional particularities and various historical, cultural and religious backgrounds must be borne in mind”93 while considering human rights issues. The OIC repeated this argument during the HRC panel discussion of 2012, adding that this approach had also been affirmed in General Assembly resolution 60/251.94

It should be noted that the reference to the Vienna Declaration here is quite interesting, because the text of that declaration – the result of the 1993 World Conference on Human Rights – contains the phrase used by the OIC in a somewhat different way. In fact, it states that “while the significance of national and regional particularities [...etc.] must be borne in mind, it is the duty of States, regardless of their political, economic and cultural systems, to promote and protect all human rights and fundamental freedoms.”95 Furthermore, this sentence is preceded by the statement that “all human rights are universal, indivisible, and

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91 Statement by Pakistan on behalf of the OIC States on a panel discussion on “discrimination and violence based on sexual orientation and gender identity” (19th session of the HRC, 7th March 2012)
92 Statement by Saudi Arabia in the Human Rights Council, 17-03-2012, as translated by UN interpreters.
93 Explanation of vote by Pakistan, on behalf of the OIC Member States, on resolution entitled “Human Rights, Sexual Orientation and Gender identity”, during the 17th session of the Human Rights Council, Geneva 16/17 June 2011.
94 Statement by Pakistan on behalf of the OIC States on a panel discussion on “discrimination and violence based on sexual orientation and gender identity” (19th session of the HRC, 7th March 2012)
95 A/CONF.157/23: par. 5
interdependent and interrelated.” The emphasis on bearing in mind cultural sensitivities is thus much weaker than the OIC member states would like to suggest. As a matter of fact, the same article of the Vienna Declaration was cited in the first of the Yogyakarta Principles, developed by the International Commission of Jurists (ICJ) and human rights experts from around the world to promote the application of human rights law to the discrimination and abuse of LGBTs.

**Division and discord**

Some actors have also warned that the discussion on LGBT rights might lead to division and discord within the UN bodies, which in turn could hinder discussion on other topics. This concern was expressed early in the debate. The OIC stated in reaction to the 2003 discussion of the Brazilian resolution that this document was “inappropriate, since it would create discord and division.” In 2008, Russia brought up the argument in response to the Argentinian declaration in the GA. The delegate stated that “no issue that could lead to confrontation or division amongst United Nations Member States should be included in the agenda. Here, unfortunately, we are dealing with precisely such an issue.”

**Shift of focus**

Another warning that has been given by the opposition in the LGBT-rights debate is that discussion of this issue might lead to a shift of focus from other (or rather: more) important human rights issues. An example can be found in the statements made by the OIC in the HRC. In 2011, the organization predicted that “[t]his debate will shift the focus from the real issues that deserve the attention of the Council.” A year later, this was elaborated upon by the statement that “we are even more disturbed at the attempt to focus on certain persons on the grounds of their abnormal sexual behavior, while not focusing on the glaring instances of intolerance and discrimination in various parts of the world, be it on the basis of color, race, gender or religion.”

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96 Ibid.
97 E/CN.4/2003/SR.61: par. 60
98 A/63/PV.71
99 *Explanation of vote by Pakistan, on behalf of the OIC Member States, on resolution entitled “Human Rights, Sexual Orientation and Gender identity”, during the 17th session of the Human Rights Council, Geneva 16/17 June 2011.*
100 *Statement by Pakistan on behalf of the OIC States on a panel discussion on “discrimination and violence based on sexual orientation and gender identity” (19th session of the HRC, 7th March 2012)*
Slippery slope

The last category of arguments given is that of the slippery slope. In general, this argument states that some smaller, insignificant event will eventually – and inevitably – lead to a more serious or significant event. This line of thought is well-known and often used in all kinds of ethical discussions. Interestingly, it is not often used in the LGBT rights debate. This might be because in many cases the slippery-slope-argument amounts to a fallacy, as the causal connection between the different elements in the argument can rarely be proven. The line of thought was first explained in the Syrian ‘counterdeclaration’ of 2008:

The notion of orientation spans a wide range of personal choices that expand far beyond the individual sexual interest in a copulatory behavior between normal consenting adult human beings, thereby ushering in the social normalization and possibly the legitimization of many deplorable acts, including paedophilia.”

In the HRC in 2012, the OIC, represented by Pakistan, restated it in a shorter way, by saying that their “opposition to the notion of sexual orientation also stems from the fact that it may encompass the social normalization, and possibly the legitimization, of many deplorable acts, including pedophilia and incest.”

Discussion and chapter conclusion

As the chapter has been divided in two distinct parts, the same can be done for the conclusion. The first section looked at the religious affiliations of state actors that have made their position on the subject of LGBT rights clear. Based on voting records, the opposition seems to exist overwhelmingly of Muslim-majority states. Furthermore, when we look which states are very restrictive when it comes to the free exercise of religion, we see that these states are almost only found on the side of the opposition. The resulting image is clear: state actors that have a religious affiliation are predominantly found on the opposing side of the debate. Having acknowledged this, it is possible to make some further remarks on the composition of this group of religious actors. First, it is very interesting to see that they are effectively all Islamic states. While there are many states with large Christian majorities, almost none of them have the severe restrictions on religious freedom that we consider to be an essential aspect of religious state actors. Secondly, the opposing side of the debate does not consist exclusively of religious state actors: some of the states that have opposed the discussion of LGBT rights have do not fulfill both conditions. What can we say about those states, and

101 A/63/PV.70
102 Statement by Pakistan on behalf of the OIC States on a panel discussion on “discrimination and violence based on sexual orientation and gender identity” (19th session of the HRC, 7th March 2012)
their relation to those states that are religious according to our ‘model’? First, it should be noted that a number of them are active members of the Organization of the Islamic Conference. A very interesting case is Gabon. This state has, according to Pew, very low restrictions on religion. Furthermore, its population is about 77% Christian and only 11% Muslim. But it is a member of the OIC, and has been since 1974. In 2008, it supported the declaration in favour of LGBT rights, but as a voting member of the HRC it voted against the resolution on the subject tabled in 2011. By actively positioning themselves within this religious bloc, and having the organization’s representatives speak on their behalf, states like this clearly show their affiliation with Islam, at least on this specific subject. In this way, they can be seen as a specific type of religious actors, especially when they let the OIC do all their (often ‘religiously-flavored’) talking for them. But as the case of Gabon shows, they are also free to change their adherence to the religious bloc. Of course, there are also some actors that are not part of the OIC, but have still voted no. An example is Ghana, which has a sizable Christian majority of almost 75% percent, but has very low restrictions on religious freedom. And yet, it voted against the HRC resolution of 2011 (it did not support either declaration in 2008). Of course, it is very well possible that religious motives play a role in the decisions states like this made, but for the purpose of this thesis they are still seen as essentially non-religious actors.

The second part of the chapter analyzed the different arguments that have been used in opposition to the discussion of LGBT rights. A number of things are remarkable in this analysis. Firstly, most of the arguments actors have used relate to the possible consequences of the debate for the UN human rights framework, and not to the importance or necessity of protecting the human rights position of LGBT people. These arguments are either quite technical (arguing that certain concepts or categories are not ) or express concerns about the universality of human rights. Only the religious and cultural arguments and the slippery-slope-argument do not refer to the human rights system itself. Secondly, the analysis shows that in terms of arguments, religion is only a very minor factor in the LGBT rights debate. Very few actors explicitly refer to religion in their statements or declarations, and even fewer actors refer to their own specific religion. What is also noteworthy, is that the only actors that use the ‘religious argument’ are those who always profile themselves as being religiously inspired: the Holy See, catholic NGOs, the OIC (as the organization) and Saudi-Arabia. Apparently, actors with a less religious profile tend to evade such clearly religious arguments – although there goals might be exactly the same.

Another interesting observation is that the number of NGO’s involved on the opposing side of the debate is apparently very small. Only an ad-hoc coalition of Roman-Catholic NGO’s was observed to be an active participant in the debate. Obviously, this contrasts with

observations made by Hayne, who established that in a closely related debate on women’s sexual and reproductive rights, conservative faith-based organizations have indeed been very active.\textsuperscript{104} Where does this difference come from? An answer may be found in the fact that Haynes looks much more at (anecdotic) evidence of behind-the-screens activity by religious NGO’s, whereas this thesis only considers the actors visible in official meetings. Haynes even mentions the 2003 LGBT resolution in the UNCHR, but states that religious (in this case conservative Christian) NGOs worked exclusively behind the screens: “As NGOs, their influence was limited. So, the conservative activists turned to another wing of their loose-knit network: friendly states, including, the governments of Egypt, Pakistan and other Muslim countries (…).”\textsuperscript{105}

what does this all mean if we take our definition of religious actors, including the condition of using a religious way of expressing, into account? If we are strict, we must acknowledge that the group of ‘true’ religious actors is very small. Of the states that have contributed individually, we could say that only Saudi-Arabia and the Holy See have truly expressed their religious concerns and thus acted as religious actors. The number of NGO’s, as mentioned above, was also very limited. This does not mean, however, that we can say the role of religious actors is marginal: there are complicating factors, and the most important of these is possibly the IOC. In the debate, states have regularly spoken on behalf of all members of this organization, and some of these contribution were clearly expressions of religious affiliation. Therefore, we should assume all members of the OIC to be acting – \textit{en bloc} – as religious actors. In other words, we cannot dismiss states as not being religious actors because they have not spoken in a religious way, when another has done the speaking on behalf of them.

\textsuperscript{104} Haynes (2013): p. 11-15
\textsuperscript{105} Ibid.: p. 13
4. THE SUCCESS OF RELIGIOUS ACTORS

Chapter introduction

The goal of this last chapter is assess whether religious actors in the political bodies of the UN human rights system have been successful in their efforts. Why this is necessary and what we should look for in this case was already explained in general terms in the theoretical framework of the thesis. Therefore, we can suffice here with an outline of the chapter and some additional remarks.

The first part of the chapter focuses, of course, on the political bodies that are central to the thesis. Have religious actors achieved their goals with regards to the debate in which they participate? As was said in the theoretical framework, their goals should not be seen as ‘winning the debate’, as that would be unrealistic. Instead, we will assume that in this case, the religious actors (who are only found on the ‘opposing side of the debate’) aim to:

- draw out, stall or even completely end the discussion of LGBT rights;
- prevent any resolutions, treaties or other more or less binding documents on the subject;
- focus the discussion – if it has to go on – on theoretical aspects, instead of on practical human rights situations.

One important remark has to be made regarding these ‘objectives’. It cannot be said that they are only important to the religious actors: they are the goals of the opposition as a whole. Religious actors form only a part of this opposition, as we have seen in the last chapter. But it is impossible to discern the specific objectives that religious actors have, if they have any. Therefore we can only work on the assumption that what the opposition as a whole accomplishes, must be in the interests of the religious actors that are part of it.

While this analysis of the debate in the political bodies is the most important, we have also concluded in the theoretical framework that it is necessary to put developments in these bodies into perspective. To do this, the later sections of the chapter will discuss whether the developments in the non-political entities of the UN have been in line with the wishes of the religious actors we have looked at, and how domestic policies that affect the human rights position of LGBTs around the world have developed in recent years. Once more, it should be clear that this analysis of ‘the world outside the political bodies’ is subsidiary, and not directly linked to answering the research question.
Success within the political bodies.

The main question of this section is whether religious actors have successfully influenced the debate in which they participated, in line with the objectives formulated above. In this context, it is useful to recall one of the conclusions of the previous chapter. While looking at the arguments that were used in a number of instances, it became clear that a significant part of the actors involved is not only opposed to the recognition of LGBT rights, but also to the mere idea that they should be discussed in the UN context. Apart from the series of statements arguing that the subject shouldn’t even be on the agenda, this is also demonstrated by actions like the walk-out that occurred in the HRC in 2012. The objectives formulated above are clearly related to this point of view, since they all boil down to the wish of ‘defusing’ the debate.

To continue with the first of the three identified objectives, it is clear that the discussion on LGBT rights has not definitively ended, so no actor can claim to have achieved that. This is no surprise, as it would be impossible to completely ban any human right subjects with such a strong advocacy from the agenda altogether. However, one could say that stalling the discussion has been the main strategy of the opposing side – religious or not – ever since the subject of LGBT rights first reached the political branch of the human rights system in 2003. In light of this, it should not be very surprising that the ‘tempo’ of the debate, or the frequency with which it occurs on the agenda, has not been constant. The events that were analyzed in the previous chapter occurred in 2003, 2008, 2011 and 2012. This series is too short to distinguish any sensible pattern, and the fact that no official debate took place in 2013 doesn’t make it any more logical. Since there is also a considerable number of actors (states and NGOs) who feel further recognition of LGBT rights is very important, the fact that it hasn’t been discussed more must be a result of the deep-felt opposition by other states.

A comparable situation has unfolded with regard to resolutions and other comparable documents. As noted before, there has been only one adopted resolution with the rights of LGBT people as its subject: the HRC resolution of 2011 that led to the panel discussion in the same body in 2012. The resolution that was presented to the Commission on Human Rights in 2003 never made it to a vote. This was a consequence of the fact that resolutions that are not expected to be adopted are often not brought to the vote, possibly because such a rejection is considered to damage the cause more than not voting at all. This grand total of two draft resolutions, with only one making it to the vote, in ten years seems, and indeed is, quite unimpressive. This number is of course related to the fact that the subject has only been on the agenda a few times, but the lack of resolutions adds another layer to this. To see why, a comparison needs to be made with other human rights subjects, some of which are also highly contested. Many items on the agenda of, for example, the HRC return annually, and result in a new resolution each year as well. In many cases these resolutions are copies of the previous ones, but with slight changes in scope and formulation. This happens with general
topics like children’s rights, the right to development, and racial discrimination, but also with situations in specific countries, such as Israel and Iran. While the effort of annual rounds of negotiation may sometimes seem barely worthwhile, this process does make possible the incremental changes mentioned in the chapter introduction. Even after an LGBT rights resolution was eventually adopted, it was only followed by a panel discussion one year later. No new draft resolution was presented to the council in the following two years. It must be assumed that if there were any attempts, they stranded at the stage of informal negotiations. Again, one recognizes the off-putting effect of an opposition that wants to have absolutely nothing to do with the subject.

The aspect of pushing the debate in a certain direction offers probably the most opportunities for exercising influence. Actors decide for themselves which aspects of an issue they speak or write about. As seen in the previous chapter, the opposition has felt little need to address the human rights situation of LGBT persons in a concrete manner. However, other actors have. Especially NGOs have been active in pointing out concrete human rights violations in specific countries, ignoring the theoretical and procedural arguments made by, among others, religious state actors. The same has been done for years by UN rapporteurs on a variety of human rights topics, as they have included the position of LGBT persons in their enquiries.

**Developments in other UN bodies**

The previous chapter analyzed events in the political bodies of the UN human rights system: the General Assembly, the former Commission on Human Rights and the HRC. However, it was already pointed out in the first chapter that these are not the only entities within the UN that occupy themselves with human rights. Two different groups are important: the legal or expert branch of the system, composed of the different treaty bodies, and entities that are in some way part of the UN bureaucracy, like the secretary-general and the Office of the High Commissioner for Human Rights (OHCHR). This division is important, because both categories have different relations to the political bodies and their actors. While the treaty bodies operate absolutely independent, which is a is *sine qua non* for the execution of their tasks as guardians of the human rights treaties, organizational actors like the secretary general and OHCHR have to take into account that in the end member states are the highest authority in the United Nations, and they should try not to estrange states from the organization.

It is easy to see why what happens in other parts of the UN human rights system could be highly relevant to actors trying to achieve certain goals in the political bodies. While states are still

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106 Based on the agendas of HRC sessions in the last 5 years.
107 As was said before, the latter are also actors in different bodies.
central to the organization, and only states can make the most important and binding decisions, other parts of the human rights system have significance of their own. The differences in authority between different entities within the UN are often not clearly recognized in the (non-specialized) media. This means that to the public can’t always see at first glance whether some statement is made, for example, in a HRC resolution or in a treaty body resolution. In both cases, headlines could go along the lines of “UN condemns situation X”, or “United Nations warn state Y”. So with regard creating an image to the world, having some influence on these entities is indeed important.

On the agendas of the different treaty bodies one can often find the same subjects as on those of the political bodies. However, with regards to LGBT rights the developments in the treaty bodies have been very different from those in the political bodies. First, active discussion on the subject has been going on much longer in the treaty bodies than in the political bodies. As we have seen, the first time a political organ of the UN discussed the rights of LGBT persons was in 2003. In 2004 however, it could already be stated, according to Lau, that “United Nations treaty bodies and transnational tribunals have issued numerous opinions recognizing sexual orientation rights as universal human rights.” So at the point where the debate on LGBT rights in the political part of the system was still in its infancy, the discussion was already well-developed in its ‘legal branche’.

The recognition referred to by Lau started with the 1994 Toonen v. Australia case, in which the UN Human Rights Committee ruled that the treaty it ‘guards’, the International Covenant on Civil and Political Rights does protect sexual minorities, even though they are not explicitly mentioned in the text. Between 1994 and 2003, other treaty bodies took similar positions with regard to the International Covenant on Economic, Social and Cultural Rights, the Convention to Eliminate all forms of Discrimination Against Women, the Convention Against Torture, and the Convention on the Rights of the Child. These were all major developments, and it seems that even if action in the political bodies could have influenced decision-making in the treaty committees, the window of opportunity had already closed in 2003. And even if the time-scale would not have been so different, the independence of the treaty bodies would have made influencing them very difficult.

Apart from the treaty bodies, other entities within the UN have also taken up the cause of LGBT rights, be it a little later. The most visible of these are secretary-general Ban Ki-Moon and the High Commissioner for Human Rights, Navi Pillay (as well as her office, the OHCHR), who have become active on the subject. According to OHCHR, both Ban and Pillay first made statements on the subject on the occasion of a side-event of a HRC meeting in 2010. In 2011, both the SG and the HCHR referred to the human rights situation of LGBT persons in speeches or remarks to the HRC itself. They

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109 Ibid.: p. 1702
have continued doing so during the following years. But action has not been limited to those two. In 2008, the UN High Commissioner for Refugees (UNHCR) issued a ‘Guidance Note on Refugee Claims relating to Sexual Orientation and Gender Identity’, which stated that LGBT persons formed ‘social groups’, and were therefore within the scope of refugee law.

While the resistance to the LGBT rights debate in the political branch of the human rights system might have had influence on the progress of the discussion in those bodies, it has apparently not hindered the rise of the subject in other parts of the UN human rights system. The treaty bodies had already taken up the subject years earlier, and in recent years major UN officials have not felt that the subject should be treated by them with great caution.

**Developments on the level of national legislation**

While it is possible to question the importance of any debate, discussion, ruling or statement made within the United Nations, one thing is clear: they are not goals in themselves, but means to an end. The UN organization is not a hermetic bubble, closed off from the outside world. Everything that goes on within the offices and conference rooms of the UN human rights system should eventually have an effect on the human rights situations of individuals around the world. The word ‘should’ in this sentence is important. In the end, it comes down to individual states to accept the norms that have been established at the UN, and apply them at the national level. Under international law, states are obliged to make national law consistent with the international agreements they have accepted, but only if they have done so. It has been said that “UN activity concerning human rights often displays an enormous gap between the law on the books and law in action.” In light of this, it is very interesting to compare the proceedings in the UN, which have been the focus of this thesis, with developments taking place on the regional and domestic level around the world. With regards to LGBT rights, a wide range of developments has occurred in all directions during the period 2003-2013. Here, we will look at the legalization of same-sex marriages, and at the decriminalization of homosexuality.

The issue of same-sex marriage is often held to be a human rights issue: denial of marriage to same-sex couples is seen to be a form of discrimination on the ground of sexual orientation, often

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based on the 16th article of the Universal Declaration of Human Rights. Much has been written on the question whether or not this line of thought is true, but that is not the point here. What is important is that if same-sex marriage is instituted, lawmakers have apparently been convinced that the old situation (with male-female marriage only) was in some way discriminative. At the moment the issue of LGBT rights was first discussed in the Human Rights Commission, the Netherlands were the only state (or jurisdiction) in the world with a same-sex marriage. As of 2013, 14 more states had followed, as well as many lower jurisdictions (mostly US states, counties and native federations). This development seems to have gained momentum: with each year, the number of states changing their legislation seems to grow. Unsurprisingly, the list of states that have changed marriage laws to include same-sex couples shows the same regional clustering that has been seen in the previous chapter. All of them are either from Europe or the America’s, with the exception of South Africa.

On the other hand, in many states changes have been small or non-existent. In the period 2003-2013, only ten states have repealed laws that criminalized homosexuality. This is remarkably less than in the preceding ten years. Furthermore, the largest of them, India, annulled this move and recriminalized homosexual activity in 2013. Practically all states that criminalize homosexuality today can be found in North- and East-Africa and the Middle East.

![Map showing geographical spread of different measures in favor of or against LGBT persons](Source: Washington Post)

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114 Article 16 states: *Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution.*

A map created by the Washington Post (see figure 1) shows the geographical spread of these legal measures concerning LGBT rights as of 12 December 2013. Again, one should keep in mind that almost all legalizations of gay marriage or same-sex have taken place in the last decade. Laws that criminalize homosexuality are mostly older. Therefore, it seems that in a select group of states, practically all either Western of Latin American, recognition of the rights of LGBT persons has developed quickly during the past ten years. This is the same group that has supported this type of recognition in the UN context. On the other hand – and unsurprisingly – the group that still has severe restrictions on homosexuality overlaps largely with the opposition in the UN debate. Practically all of them are African or Middle-Eastern countries, and many of them are IOC-members with large Islamic majorities.

Chapter conclusion
The following points can be made after the discussion in this chapter. Again, the focus will firstly be on the debate in the political bodies. This can then be followed by what developments outside these bodies actually tell us.

The debate on LGBT rights in the political bodies of the UN has not gained a steady pace. Actual official debates on the subjects have been few, and resolutions even fewer. This contrasts with the way many other subjects return to the agenda regularly. It looks like the opposition, which consists partially of religious actors, manages reasonably well to keep the debate from progressing quickly. They may not seem to win the fight, but they have definitely not lost it either. This we can say that the religious actors and their partners in the opposition have achieved the objectives formulated above reasonably well. While the debate has not ended completely – and in all likelihood will not in the future – and a resolution was passed in 2011, it has not become a regular subject on the agenda with more encompassing resolutions being adopted every year, like many other human rights topics.

However, the actors in question have not been able to ‘constrain’ different entities within the UN organization, like the secretary-general and the High Commissioner for Human Rights, with regards to LGBT rights. This illustrates that while the UN is primarily an organization of states, the forums where these member states gather do not always take the lead when it comes to solving human rights problems. The developments in the field of LGBT rights outside the UN, in the legislation of individual states, appear to have also been very diverse and follow the same geographical and religious lines that divide the sides in the UN debate. However, it is not realistic to attribute the lack of change in the human rights position of LGBT people in certain countries to their governments’ actions in the UN’s political bodies. Rather, both aspects should be seen as
consequences of the dominance of certain values in these countries, and since many of them can be considered religious states, those values can often be assumed to have religious roots.
CONCLUSION

To conclude the thesis, we need to answer the question that was asked in the introduction and that has guided our analysis: “To what extent do religious actors in the political bodies of the United Nations affect debates and decisions with regards to LGBT rights?” The four chapters of this thesis have each contributed to finding an answer to this question in a different way.

In the first chapter, a theoretical framework was outlined, which consisted essentially of a number of basic assumptions regarding the question. Firstly, that a religious actor is any actor – state or non-state - that has a clear affiliation with a specific religion, and that also employs a religious way of expressing. Secondly, that to measure the extent to which such actors affect the relevant debates, we should also take measure of the rate of success they have had within the political bodies. And to provide a sense of perspective, this measurement of ‘internal’ success ought to be compared with developments on the issue outside those bodies.

The second chapter discussed the international human rights regime, of which the UN human rights system is a crucial part. It also explained that this UN human rights system consists partly – and not exclusively – of so-called ‘political bodies’. These bodies are central to this thesis, because they are the forums where representatives of both states and NGOs meet to discuss human rights issues. Furthermore, the chapter that stated that for our purposes, UN actors like the Secretary-General and OHCHR are not to be regarded as possible religious actors, but NGOs and states are.

In the third chapter two different analyses were made: first we applied the two conditions for ‘religious actorship’ to the states that on have on two occasions (in 2008 and 2011) officially a side in the debate. Secondly, an analysis was made of arguments that were used on four different occasions (in 2003, 2008, 2011 and 2012) to see to what extent these could be considered expressions of religion. Through these analyses, it became clear that religious state actors can only be found on the side opposing wider recognition of LGBT rights. Furthermore, almost all of them are Islamic – with the exception of the Holy See. The religious actors are also almost exclusively states, which could be considered surprising. A very interesting factor was added by the prominence of the OIC. Some states that could not be considered religious actors according to the conditions we formulated, still choose to be represented by the clearly religious organization that the OIC is.

In the fourth and final chapter we looked at what the opposition – which consists partly of religious actors, but cannot be separated in terms of achievements – has realized in the political bodies. In short, they seem to have managed quite well in stalling the debate, keeping it from returning to the agenda on a regular basis. This means that religious actors – as part of an apparently very principled opposition – have affected the debate in a recognizable way. However, this slowing down of developments cannot be recognized when looking at developments outside the political
bodies. In the human rights treaty bodies, the recognition of LGBT rights was already all but an established way of thinking in the early 200s, when debate in the political bodies just started. Furthermore, the decade between 2003 and 2013 has seen a lot of countries taking practical measure that recognize the equal rights of LGBTs in different fields of life, like the legalization of gay marriage. On the other hand, a group of states, largely the same as those that form the opposition in the UN, has firmly held on to legislation that restricts the freedom of – amongst others – homosexual individuals.

Based on the summary above, is it possible to formulate a one-sentence answer to the research question? If we assume that religious actors can be recognized the way we have tried to recognize them, these actors have affected the debate on LGBT rights in the political bodies by sticking together as a firm opposition that has had considerable success in delaying and obstructing development of the debate. It is also interesting to see that these religious actors are almost exclusively Islamic states, leaving a marginal role for NGO’s and state actors with other religious affiliations.

To what extent can the case study of the LGBT rights debate learn us more about the role of religious actors in the human rights system in general? At least we can say that, in contrast to what many authors seem to do, state actors have to be taken seriously as religious actors. Trying to find religion only in NGOs while dismissing the interactions between states as secular by definition is, based on our findings, no longer a feasible option. On the other hand, the specific issue of LGBT rights is of course an extreme example, because it is so highly relevant to religious actors. Merely based on the analysis in this thesis, we cannot conclude that – for example – Islamic religious state actors will usually stick together on all kinds of human rights issues. Furthermore, a lot depends on definitions and methodological restrictions. We have already seen that Haynes has made other conclusions on the role of NGOs because he focuses on another level of political activity. For these reasons, the analysis in this thesis should not be seen as a model to simply apply to other fields of human rights activities, but as an example of how the role of religious actors in the system can become clear when we look at in a specific way, just as Haynes has done using a different approach.

It is also useful to look shortly at what was said in the last chapter regarding developments outside the political bodies. When we take a step back from the research question and look at the topic of UN human rights debates in general, these developments are highly relevant as they raise fundamental questions about the usefulness of international human rights debate like these. In this case the parties seem practically stuck in a stalemate, while around them, both inside and outside the United Nations, all kinds of developments take place. UN officials choose their side and seek the media in order to defend it. Western governments at times seem engaged in a battle of ‘who can improve the equality of LGBT people the fastest’, while others cling on to or even strengthen their
anti-gay laws. And there is little evidence that any of this happens because of the debate within the UN conference rooms. Of course, this is a specific case, and the last thing we should start to do is ignoring debates like these. There are few messages stronger than a UN resolution adopted by a great majority of the ‘peace-loving nations’, as the UN Charter calls the member states. Especially if the actors involved can jump over their own shadows and create true breakthroughs in difficult human rights debates. In the case of LGBT rights, the debate looks more like a reflection of other developments that are happening anyway. And it would not be far-fetched to say that religion, which makes certain actors very principled, is an important factor.

As a finale, and despite the somewhat pessimistic words above, it is interesting to look at the future of the debate. Every attempt to make more specific predictions about the future the debate would of course amount to speculation, and should be done very carefully. It is clear that as of 2013, the issue of LGBT rights was still not universally accepted as a suitable subject of discussion in the political entities of the UN. It is likely that when even the debate itself is still a point of discussion, it will probably be going on for many years to come. At the same time, it is incontestably clear that in the last few years, the issues of the rights of LGBT people and discrimination on grounds of sexual orientation and gender identity have steadily risen to higher positions on the agendas of the political bodies, especially the HRC. As Saiz already mentioned in 2004, “progress at the political forums of the UN cannot be measured solely in terms of textual references to sexual orientation.”116 An important question is how long the opposition, religious or not, will be able to keep the genie of LGBT rights in the bottle. At least it will be very interesting how things develop in future years.

116 Saiz (2004): 59
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Literature


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**UN documents**

All documents followed by UN document symbols (e.g. A/63/PV/70) are official UN documents. Documents without such a code are statements by states and NGO’s made available by them through UN websites. Video recordings of official HRC meetings are also available for online streaming on its website, and were used for analysis in chapter 3.

**General Assembly**
- Verbatim record of the 70th plenary meeting of the 63th session of the General Assembly, 2008 (A/63/PV.70)
- Verbatim record of the 71st plenary meeting of the 63th session of the General Assembly, 2008 (A/63/PV.71)

**UN Commission on Human Rights**

**Human Rights Council**
- Explanation of vote by Pakistan, on behalf of the OIC Member States, on resolution entitled “Human Rights, Sexual Orientation and Gender identity”, during the 17th session of the Human Rights Council, Geneva 16/17 June 2011.


- Statement by Pakistan on behalf of the OIC States on a panel discussion on “discrimination and violence based on sexual orientation and gender identity” (19th session of the HRC, 7th March 2012)

- Joint written statement submitted by Caritas Internationalis (International Confederation of Catholic Charities), New Humanity, non-governmental organizations in general consultative status, the Association Points-Coeur, the Associazione Comunità Papa Giovanni XXIII, the Company of the Daughters of Charity of St. Vincent de Paul, the Dominicans for Justice and Peace - Order of Preachers, the International Organization for the Right to Education and Freedom of Education (OIDEL), the World Union of Catholic Women’s Organisations, non-governmental organizations in special consultative status, to the 19th session of the Human Rights Council, 2012 (A/HRC/19/NGO/43)

Treaty bodies

- Human Rights Committee Communication 488/1994, Toonen v. Australia

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