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برلمانيون من أجل التحرك العالمي



ADVANCING THE HUMAN RIGHTS AND INCLUSION OF LGBTI PEOPLE

A HANDBOOK FOR PARLIAMENTARIANS

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PGA, a non-governmental, multi-party, international network of legislators acting in their individual capacity, informs and mobilizes parliamentarians in all regions of the world to advocate for human rights and the Rule of Law, democracy, human security, inclusion, gender equality and justice, including climate justice.

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UNDP works in 170 countries and territories to eradicate poverty and inequality while protecting the planet. UNDP's work supports countries around the world to achieve the Sustainable Development Goals (SDGs) through a human-rights-based approach to programme design and implementation focused on leaving no-one behind. Since 2007 UNDP has worked in more than 100 countries to ensure the express inclusion of LGBTI+ people in partnerships for sustainable human development. UNDP's Bureau of Policy and Programme Support funded the publication of this Handbook, and UNDP acknowledges with gratitude the longstanding partnerships with donors, in this case particularly the Government of Sweden, that enable its work.

PGA, a non-governmental, multi-party, international network of legislators acting in their individual capacity, informs and mobilizes parliamentarians in all regions of the world to advocate for human rights and the Rule of Law, democracy, human security, inclusion, gender equality and justice, including climate justice. Since 2013, PGA's global parliamentary Campaign against Discrimination Based on Sexual Orientation and Gender Identity (SOGI Campaign) has sensitized parliamentarians from all regions of the world, facilitated meaningful interactions between parliamentarians and representatives of the LGBTI community, and contributed to efforts to advance inclusive legislative reforms in Angola, Barbados, Bolivia, Chile, El Salvador, Mozambique, Nepal, Pakistan, Seychelles and Uruguay. PGA gratefully acknowledges the support of the Arcus Foundation, Global Equality Fund, Open Society Foundations, Sigrid Rausing Trust, and Oak Foundation.

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CONTENTS

Foreword	6
Introduction ... and a call for action	8
How to use this Handbook	12
Acronyms and abbreviations	14
Glossary	16
PART I: Overview	24
1. LGBTI inclusion matters ... to everyone	27
1.1 Who are LGBTI people?	27
1.2 Why should MPs take urgent action for LGBTI human rights?	30
1.3 What is at stake for LGBTI people right now?	32
PART II: LGBTI rights are human rights	34
2. Global human rights frameworks	37
2.1 The UN treaty bodies and Universal Periodic Review	40
2.1.1 Relevant recommendations of UN treaty bodies, special procedures and the International Labour Organization	43
2.2 The 2030 Agenda for Sustainable Development and the Sustainable Development Goals	49
2.2.1 Voluntary National Reviews	55
2.3 The LGBTI Inclusion Index	55
2.4 Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity	56
2.5 Work by other UN entities	57
2.6 The Yogyakarta Principles	58
3. Regional human rights frameworks	60
3.1 Africa	60
3.2 Europe	62
3.2.1 The Council of Europe	62
3.2.2 The European Union	62
3.3 The Americas	63
4. Checklists: Laws, bills and policies on LGBTI human rights in your country	66
PART III: Effective action	70
5. Entry points for advancing LGBTI human rights: Mainstreaming inclusion	73
5.1 Gender mainstreaming and inclusive representation	73
5.1.1 Working within parliaments	74
5.2 Protection against discrimination	75
5.3 Protection against violence	76
5.3.1 Sexual and gender-based violence	76
5.4 Family and protection of children	77
5.5 HIV	77

5.6 Gender-inclusive peace and security	78
6. Lessons learned from progressive actions around the world	79
7. Stepping up in your own country	98
7.1 Use your multiple roles: representation, legislation, oversight	99
7.1.1 In your representation role	99
7.1.2 In your role as a lawmaker	102
7.1.3 In your oversight role	105
7.2 Work within parliament and with political parties	106
7.2.1 Within and across parliament	106
7.2.2 Within your political party or group	107
7.3 Be a leader in your community	108
7.4 Internal party actions: party manifestos and support for LGBTI candidates	109
7.4.1 Political party manifestos	109
7.4.2 Openly LGBTI candidates and their non-LGBTI allies	110
7.5 Parliamentarians for Global Action: Empowering parliamentarians to foster LGBTI inclusion	111
PART IV: Further guidance	112
8. Speaking about LGBTI human rights and inclusion	115
8.1 How to speak effectively about LGBTI issues	115
8.2 How to ensure that your discourse will be appropriate to the context	117
8.2.1 Sexual orientation and gender identity diversity within local cultures and traditions in Asia and the Pacific	117
8.3 Conversations about LGBTI inclusion and faith	118
8.3.1 Universal arguments and messages that have been used successfully to promote LGBTI inclusion	118
8.3.2 Arguments and messages that have been used successfully to promote LGBTI inclusion in some African contexts	119
8.3.3 Arguments and messages that have been used successfully to promote LGBTI inclusion in some Asian contexts	120
8.3.4 Arguments and messages that have been used successfully to promote LGBTI inclusion in a Latin American and Caribbean context	121
8.4 Economic arguments for LGBTI inclusion	121
8.5 How to respond to myths about LGBTI people	126
9. Holding decision makers to account: Ask the right questions	134
9.1 Ask the government	134
9.2 Ask the parliament	135
9.3 Ask the Ministry of Interior	135
9.4 Ask the Ministry of Health	135
9.5 Ask the Ministry of Justice	136
9.6 Ask the Ministry of Education	136
9.7 Ask the Ministry of Social Welfare	137
9.8 Ask the immigration authorities	137
9.9 Ask the judiciary	137

FOREWORD

On behalf of Parliamentarians for Global Action (PGA)

Dear friends and colleagues,

In 2016, when I was a Senator for the Opposition party in Belize, I was invited to participate in a [Seminar on Equality and Non-Discrimination based on Sexual Orientation and Gender Identity](#) (SOGI) in Montevideo, Uruguay, held at the sidelines of the inception meeting of the Equal Rights Coalition (ERC). The Seminar was convened by the Parliament of Uruguay and [Parliamentarians for Global Action \(PGA\)](#), a network of 1,200 legislators in 132 countries around the world that informs and mobilizes parliamentary members to advocate for human rights and the rule of law, human security, peace, inclusion and gender equality.

At the Seminar, I witnessed what, at the time, I thought was almost impossible: lesbian, gay, bisexual, trans and intersex (LGBTI) activists, and parliamentarians, in the same room, exchanging views and experiences, and engaging in open and productive discussions with the aim of solving common challenges. I also experienced the powerful and transformative effects of these interactions: hearing personal stories and experiences is key to helping members of parliament understand the challenges faced by LGBTI people and the urgency to act.

Since the inception in 2013 of our [Global Parliamentary Campaign against Discrimination based on Sexual Orientation and Gender Identity](#) (SOGI Campaign), PGA has positioned itself as the parliamentary partner of LGBTI civil society organizations around the world, facilitating collaboration and encouraging its member parliamentarians to support/champion LGBTI-affirming legislative reforms, including decriminalization of consensual same-sex activity, in Angola, Barbados, Bolivia, Chile, El Salvador, Mozambique, Nepal, Pakistan, Seychelles and Uruguay.

I was eager to join PGA's global network of legislators committed to human rights, which gave me the assurance that I had peers around the world addressing similar issues and there was a network in place ready to support me and other like-minded colleagues.

At the meeting in Montevideo, PGA and UNDP presented the concept for the publication "Advancing the Human Rights and Inclusion of LGBTI People: A Handbook for Parliamentarians" and took the opportunity to collect insights and reactions from participating MPs and civil society representatives. (The Handbook, published in 2017, is available in nine languages and has been downloaded 9,000 times in English and 19,000 times in Spanish. Our LGBTI Inclusion site housing the Handbook has attracted 79,000 unique visits accounting for 24 percent of all visits to PGA's website).

Five years after this truly eye-opening experience, I am delighted to co-introduce the Handbook's new, updated edition and to share how it encouraged me to take concrete actions to promote the rights of all individuals, including LGBTI people, in my country and globally.

Through PGA, I have connected with parliamentarians in the Caribbean and all around the world and seized on meaningful and regular interactions with human rights experts and civil society representatives in my country, Belize, and across the region and globally, who have shared their testimonies and stories, inspiring parliamentary action for the protection of human rights. I have shared the Handbook with colleagues to improve understanding of key issues and bridge difficult conversations aimed at finding common ground. I am honoured to be considered an ally of the LGBTI community and a spokesperson for their rights and inclusion. And to think it all started at that first PGA discussion in Montevideo!

Changing laws and changing minds takes time and does not occur in a vacuum. I very much hope this Handbook is helpful in prompting you to take that first step towards fully and effectively guaranteeing rights for LGBTI people.

Hon. Valerie Woods, Speaker of the House of Representatives of the Parliament of Belize and PGA Board Member, Belmopan.

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On behalf of the United Nations Development Programme (UNDP)

Leave no one behind.

These four simple words reflect one of the most powerful commitments that countries around the world have ever made. They appear in the 2030 Declaration for Sustainable Development, adopted unanimously by world leaders in September 2015. Above all, these words are a commitment to marginalized and excluded people: that they too will be able to enjoy their full human rights and benefit from common prosperity. They are also a recognition that everyone must be empowered and supported to reach their full potential. Only by leaving no one behind can we all – individuals, families, communities, and countries – thrive.

Who is marginalized and excluded? Who, therefore, must be prioritized in the effort to achieve sustainable human development through a human-rights-based approach? The answer varies from place to place, but two of the most pervasive forms of discrimination and exclusion around the world take place against girls and women, and against LGBTI people. The struggles for gender equality and for the inclusion of LGBTI people are inextricably linked. We all must be included in human development, regardless of our gender, our gender identity or expression, our sexual orientation or our biological sex characteristics.

The evidence collated in this Handbook shows that the conditions for respecting LGBTI human rights and inclusion do not come about by happenstance. They flourish when we have strong parliamentary leaders who are committed to leaving no one they represent behind.

We have not yet achieved equality for LGBTI people in any country, but progress toward this goal has been remarkable in recent decades. **Just imagine if a critical mass of parliamentarians around the globe were to now commit to taking concrete action to advance the human rights and inclusion of LGBTI people. The impact on legal, policy and social norm changes in every corner of the globe would be profound.**

UNDP remains committed to supporting MPs around the world to accelerate this positive momentum.

To leave no one behind.

Haoliang Xu and Ulrika Modéer

Respectively, Assistant Secretaries-General of the United Nations and Directors of the UNDP Bureaux for Policy and Programme Support and External Relations and Advocacy, New York.





INTRODUCTION ... AND A CALL FOR ACTION

Inclusive societies promise more sustainable human development outcomes. This is because every member of such societies understands that they have a contribution to make, their contribution is valued, and no one should be left behind. Inclusiveness is thus a key precondition for building and sustaining peace, harmony and societal cohesion.

Yet LGBTI people in every country and development context have been denied societal inclusion and respect for their human rights. Increasingly, MPs all over the world are taking action to remedy the effects of this denial. But many who have done so face hostile, organised and highly emotional reactions from those who do not support LGBTI inclusion.

The challenges facing LGBTI people around the world – and their allies working to promote respect for their human rights and inclusion – remain formidable. Violence, abuse and stigma in many cases remain institutionalized in the laws and policies of nations. Reprisals against LGBTI people form an early warning of – and a predictable accompaniment to – the rise of authoritarianism.

At the same time, however, the courage and leadership of elected officials has accelerated progress worldwide:

- The parliaments of **Bhutan, Gabon and Angola** all decriminalized same-sex activity in the past two years
- **30 Member States of the UN** now provide for marriage equality. The parliaments of **Australia, Germany, Malta, Finland, Switzerland,** and **Chile** have all passed the necessary legislation over the past 4 years.
- More and more Member States of the UN are legislating to **ban the harmful practice of so-called 'conversion therapy'**, thus protecting children from this insidious form of child abuse.

As Valerie Woods mentions in her foreword on behalf of PGA, this Handbook substantially rewrites and updates a first edition produced by UNDP and PGA in 2017. Contributors include experts on parliamentary procedure, governance, health and inclusion, and of course many parliamentarians themselves. Its content demonstrates the unique power and authority of parliament and parliamentarians – especially when working in close alliance with LGBTI civil society organizations (CSOs) – to promote inclusion and respect for the rights of LGBTI people.

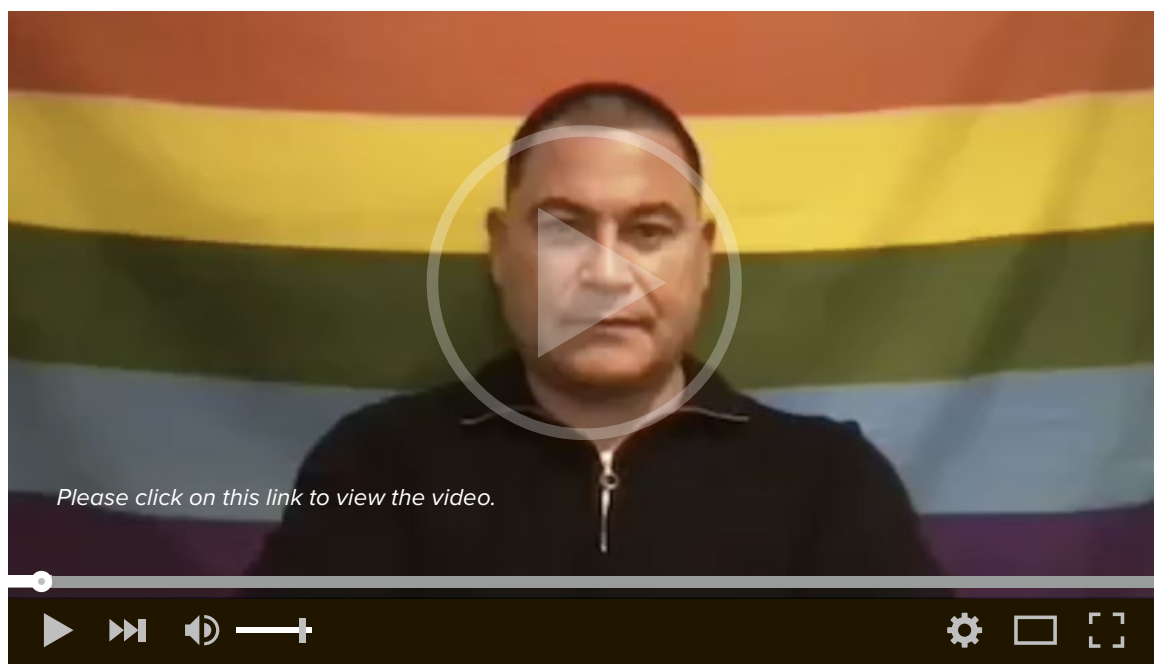
The Handbook sets out practical advice as to how you, as an MP, can:

- make use of the global and regional human rights frameworks that oblige your government to ensure the human rights and inclusion of LGBTI people;
- find the entry points that will enable you to act, in whatever your national context, to promote LGBTI rights and inclusion;
- use your multiple roles – legislative, representative and oversight – to protect LGBTI human rights and inclusion and hold your government to account on its obligations to do so;
- work with communities and allies across political divides to frame laws, shape legal and policy frameworks and lead political campaigns for the human rights of your LGBTI constituents;
- apply lessons learned from successful actions taken by your fellow MPs across the globe to help you to step up and speak out effectively in your own country.

Positive and inclusive change takes place every day around the world through effective and inclusive parliamentary action. As an MP, you can make real change to the quality of life, dignity, respect and rights of your LGBTI constituents and compatriots. You can support, form or lead coalitions to effect real change – sometimes quite rapid change – to protect and ensure human rights and inclusion for LGBTI people.

Haloiang Xu and Ulrika Modéer, in their joint foreword on behalf of UNDP, remind you that you are not alone in this work. In this Handbook you will find suggestions, examples and evidence to help you act effectively to promote inclusion in your own country context. UNDP and PGA – and the increasing number of networks of and for MPs around the world that now exist to bring this urgent human rights imperative to fruition – can support you in practical ways. In particular, we can help you engage a former or serving parliamentarian or other context-appropriate expert to facilitate a workshop for your fellow MPs, media and civil society on how to build the alliances and make the arguments required to make positive change happen.

Finally, never forget the unique authority that your position as a parliamentarian confers on you to promote inclusion and respect for the human rights and dignity of LGBTI people. And never forget that help is always at hand for you to help ensure that LGBTI rights are recognized and honoured around the world for what they are: human rights.



Source: Charles Chauvel, *Global Lead Inclusive Processes and Institutions*, UNDP; address to Interparliamentary Plenary Assembly, Copenhagen 2021 Human Rights Forum, August 2021



In many places, LGBTQIA+ people still face stigma, violence and discrimination and are not able to reach their full potential. There is a lot to do in our parliaments, on our streets and in our minds.

However, I want to highlight the hope and all the positive change we have seen so far. This change has been possible because of so many people supporting each other, working together to change laws or raising awareness in our streets. Activists and parliamentarians, academics and allies, each of us can play a role to make this change happen, especially if we join forces.

To those who hold the power to make fundamental change: this is the time to do it. As a former parliamentarian, I would like to call on you, parliamentarians, to use your power to change our society for the better.

We are mostly limited by the borders that other people have put on us, and that we have made our own. To bring those down takes a lot of courage. It all begins with being true to yourself. Be true to yourself and the rest will follow.”

– Petra de Sutter, Federal Deputy Prime Minister of Belgium and former Member of the European Parliament.

HOW TO USE THIS HANDBOOK

Terms, contexts, legal systems, and discourse vary considerably from one place to another but this Handbook is designed to be of practical benefit to MPs and their allies, wherever they are in the world.

Please treat this Handbook as a base resource – adapt it to your own needs and context to build your own toolkit to foster the inclusion and protect the human rights of LGBTI people.

You are not alone. UNDP and PGA – and other organizations working for LGBTI inclusion – can assist you if you need to clarify anything in the Handbook, want to follow up on the guidance it offers or require support to implement what it recommends.

THIS HANDBOOK IS ORGANISED ON A MODULAR BASIS. YOU DO NOT HAVE TO READ IT ALL. USE THE PART OR PARTS THAT ARE MOST RELEVANT TO YOU. THE PARTS ARE AS FOLLOWS:

- Part I:** **Overview** introduces the current situation of LGBTI people around the world and explains why it is important that MPs take urgent action to protect their human rights.
- Part II:** **LGBTI Rights are Human Rights** provides a knowledge base on the global and regional legal and rights frameworks most relevant to LGBTI people, and their key recommendations relevant to LGBTI human rights; it explains how you can work with United Nations treaty bodies and other international and regional instruments and resources to protect and defend LGBTI human rights.
- Part III:** **Effective Action** identifies key entry points, based on global rights frameworks, for action to protect LGBTI human rights, and the most important lessons learned from progressive actions taken by MPs and parliaments around the world, including many examples of successful strategies towards reform.
- Part IV:** **Further Guidance** provides sensitive and practical guidance on speaking about LGBTI people and their rights, including how to adapt to specific local contexts and conditions, along with practical advocacy tools and model questions to ask of government, parliament, other decision-makers and policy makers, for use in your oversight role as an MP.

KEY TERMINOLOGY

LGBTI: This Handbook uses the convenient acronym LGBTI inclusively, i.e. inclusive of all people of diverse sexualities, gender identities and sex characteristics. In doing so, we acknowledge the limitations of the term, especially in covering and honouring the complexity of the populations the term encompasses, and context-specific particularities or languages (see section 1.1, “Who are LGBTI people?”).

MEMBER OF PARLIAMENT (MP): The Handbook is for the use of any person elected to a legislature in any governmental system. Again for convenience, we mainly use the term “Member of Parliament (MP)”. Although we acknowledge that this term is particular to systems of government derived from the Westminster model, it is used in its broadest sense.

ACRONYMS AND ABBREVIATIONS

CSO

civil society organization

EU

European Union

HIV

human immunodeficiency virus

ILGA

International Lesbian, Gay, Bisexual, Trans and Intersex Association

ILO

International Labour Organization

LGBTI

lesbian, gay, bisexual, transgender and intersex

MP

member of parliament

MSM

men who have sex with men

NGO

non-governmental organization

OHCHR

Office of the United Nations High Commissioner for Human Rights

PGA

Parliamentarians for Global Action

SDGs

Sustainable Development Goals

SOGIESC

sexual orientation, gender identity, gender expression and sex characteristics

SRHR

sexual and reproductive health and rights

UN

United Nations

UNDP

United Nations Development Programme

UNICEF

United Nations Children's Fund

UNESCO

United Nations Educational, Scientific and Cultural Organization

UPR

Universal Periodic Review

WHO

World Health Organization

GLOSSARY

This list includes terms used in this Handbook as well as other, related terms, that are not. It is not an exhaustive list of terms relevant to the human rights and inclusion of LGBTI people.

Note also that the terms listed here are in constant evolution. Their use and the meaning attached to them varies from one place to another. To use terms such as these in a way that is appropriate to a particular context and/or culture, see section 8, “Speaking about LGBTI human rights and inclusion”.

The definitions in this list are drawn (and sometimes expanded) from existing definitions in international texts such as the Yogyakarta Principles, or written by international organizations (UNESCO) or LGBTI organizations (ILGA, RFSL, TRANSIT, MSMIT, OII Australia, OII-Europe, NELFA).

A

Aromantic: Someone who does not experience romantic attraction to anyone.

Asexual: Someone who does not experience sexual attraction towards anyone.

B

Biphobia: The fear, unreasonable anger, intolerance or/and hatred toward bisexuality and bisexual people. The phobia may exist among heterosexuals, gay men, lesbians or bisexuals themselves and is often related to multiple negative stereotypes of bisexuals centered on a belief that bisexuality does not exist and on the generalization that bisexuals are promiscuous.

Bisexual: A person who is emotionally and/or sexually attracted to persons of more than one sex.

C

Cisgender: A term referring to persons whose gender identity and gender expression match the sex they were assigned at birth and the social expectations related to their gender.

Comprehensive sexuality education (CSE): A curriculum-based process of teaching and learning about the cognitive, emotional, physical and social aspects of sexuality. It aims to equip children and young people with knowledge, skills, attitudes and values that will empower them to: realize their health, well-being and dignity; develop respectful social and sexual relationships; consider how their choices affect their own well-being and that of others; and understand and ensure the protection of their rights throughout their lives.¹

Conversion therapy: An umbrella expression to refer to any sustained effort to modify a person's sexual orientation, gender identity or gender expression. Other terms include: "reparative therapy", "gay cure", "ex-gay therapy", "gender critical therapy" and Sexual orientation, gender identity or gender expression change efforts (SOGIECE) (ILGA). Conversion therapy is banned in several countries and has been defined as torture by several national and international instances, such as the UN expert on SOGI.²

¹ UNESCO, [Why Comprehensive sexuality education is important](#), 2018.

² OHCHR, ['Conversion therapy' can amount to torture and should be banned says UN expert](#), 2020.

E

Endosex (or dyadic): A person who was born with sex characteristics that fit typical gender-binary notions of or social expectations for male or female bodies (e.g. non-intersex). An endosex person may identify with any gender identity and any sexual orientation.

G

Gay: Usually used to refer to a person who identifies as a man and who is emotionally, affectionally and/or sexually attracted to men, even though women attracted by women may define themselves as gay.

Gender: Refers to the social attributes and opportunities associated with being male and female and the relationships between women and men and girls and boys, as well as the relations between women and those between men. These attributes, opportunities and relationships are socially constructed and are learned through socialization processes. They are context and time specific and changeable. Gender determines what is expected, allowed and valued in a woman or a man in a given context. In most societies there are differences and inequalities between women and men in responsibilities assigned, activities undertaken, access to and control over resources, as well as decision-making opportunities. Gender is part of the broader socio-cultural context. Other important criteria for socio-cultural analysis include class, race, poverty level, ethnic group and age.³

Gender-based violence: An umbrella term for any harmful act that is perpetrated against a person's will and that is based on socially ascribed (gender) differences between males and females. It includes acts that inflict physical, sexual or mental harm or suffering, threats of such acts, coercion, and other deprivations of liberty. These acts can occur in public or in private.⁴

Gender binary: A classification system consisting of two opposites: men or women, male or female, feminine or masculine.

Gender expression: The way a person communicates their gender identity externally through their appearance, e.g. clothing, hair style, use of cosmetics, mannerisms, way of speaking and demeanour and how these presentations are interpreted based on gender norms.

Gender identity: A person's internal, deeply felt sense of their gender or a combination of genders. A person's gender identity may or may not correspond with her or his sex assigned at birth and their sex characteristics.⁵

³ UN Women, *Concepts and Definitions*.

⁴ Inter-Agency Standing Committee (IASC), *Guidelines for Integrating Gender-Based Violence Interventions in Humanitarian Action*, 2015.

⁵ Introduction to the Yogyakarta Principles.

H

Heterosexism: Refers to the imposition of heterosexuality as the only normal and acceptable expression of sexuality, resulting in prejudice or discrimination against people who are not heterosexual or who are perceived to not be heterosexual.

Heterosexual: Refers to a person whose romantic, emotional and/or physical attraction is to people of a different gender (sometimes referred to as “straight”).

Homophobia: An irrational fear of, aversion to, or discrimination against persons known or assumed to be homosexual, or against homosexual behaviour or cultures.

Homosexual: A sexual orientation classification based on the gender of the individual and the gender of her or his sexual partner(s). When the partner’s gender is the same as the individual’s, the person is categorized as homosexual. It is recommended to use the terms lesbians and gay men instead of homosexuals. The terms lesbian and gay are considered neutral and positive, with a focus on the person’s identity rather than their sexuality. Lastly, the term homosexual has, for many, a historical connotation of pathology.

I

Intersectionality: The interaction of different axes of identity, such as gender, gender identity, sexual orientation, sex characteristics, race, ability and socio-economic status, in multiple and intersecting ways, resulting in different forms of oppression affecting a person in interrelated ways.⁶

Intersex: Intersex people are born with physical or biological sex characteristics, such as sexual anatomy, reproductive organs, hormonal patterns and/or chromosomal patterns, that do not fit the typical definitions or social expectations for male or female bodies. These characteristics may be apparent at birth or emerge later in life, often at puberty.⁷

Intersexphobia or interphobia: A range of negative attitudes (e.g. emotional disgust, fear, violence, anger, or discomfort) felt or expressed towards people whose sex characteristics do not conform with society’s expectations of how the sex characteristics of a person, understood only as male or female, should look.⁸

⁶ Adapted from Psychological Society of South Africa, [Practice Guidelines for Psychology Professionals Working with Sexually and Gender-Diverse People](#), 17 April 2018.

⁷ UN Free and Equal, [Fact Sheet: Intersex](#).

⁸ Dan Christian Ghattas, [Protecting Intersex People in Europe: A Toolkit for Law and Policymakers](#) (ILGA Europe and OII-Europe, 2019).

K

Key populations: Key populations, or key populations at higher risk of HIV, are groups of people who are more likely to be exposed to HIV or to transmit it and whose engagement is critical to a successful HIV response. In all countries, key populations include people living with HIV. In most settings men who have sex with men, transgender people, people who inject drugs and sex workers and their clients are at higher risk of exposure to HIV than other groups.⁹ However, each country should define the specific populations that are key to their epidemic and response based on the epidemiological and social context.

L

Legal gender recognition: Laws, policies or administrative procedures and processes which set out how trans and gender-diverse people can change their sex/gender marker and names on official identity documents.¹⁰

Lesbian: A person who identifies as a woman and who is emotionally, affectionally and/or sexually attracted to women.

Lesbophobia: An irrational fear of, aversion to, or discrimination against persons known or assumed to be lesbian, or against lesbian behaviour or cultures.

LGBTI: This acronym derives from the words lesbian, gay, bisexual, transgender and intersex. So it encompasses several groups of individuals. LGBTI is the most commonly used term in the international human rights field. However, it has its origins in the Global North and therefore has its limitations. It groups individuals according to identity categories that are not universal: people identify themselves in a myriad of ways, or sometimes do not identify within just one given category. The term LGBTI may include, for example, people who are non-binary, gender fluid or pansexual, but also people such as *hijras* in India and Bangladesh, *mahu* in French Polynesia, *muxe* in Mexico or *two-spirit* in North America. Virtually every language has its own terms for sexual and gender minorities, and while these words may be negative or derogatory, they also demonstrate the universality of sex, and sexual and gender diversity.

What LGBTI people all have in common is that they are considered as defying the gender norms and expectations of society. For example, lesbian, gay and bisexual people counter the gendered expectation that men and women have relationships only with people of their own sex and that people of the same gender cannot have relationships. Trans people counter the assumption that gender identity is always aligned with the sex assigned at birth. Non-binary people counter the assumption that gender identity must fall on one or the other side of the gender binary (male or female). Intersex people counter the expectation that biological sex characteristics can always be classified as male or female without ambiguity.

LGBTIphobia: An umbrella term that covers forms of fear of, aversion to, or discrimination against LGBTI people (or those perceived to be). It includes homophobia, lesbophobia, biphobia, transphobia and interphobia (also called intersexphobia).

⁹ A/75/836.

¹⁰ Lucas Ramón Mendos and others, *State-Sponsored Homophobia 2020: Global Legislation Overview Update* (Geneva, ILGA, December 2020).

M

Men who have sex with men (MSM): This refers to all men who engage in sexual and/or romantic relations with other men or who experience sexual attraction towards the same sex. As used in this publication, the term is inclusive both of a variety of patterns of sexual behaviour by males with members of the same sex and of diverse self-determined sexual identities and forms of sexual and social associations (“communities”). “Men who have sex with men” can include men who identify as gay or bisexual, transgender men who have sex with men and men who identify as heterosexual. Some men who have sex with men also form relationships with, or are married to, women. Some men sell sex to other men, regardless of their sexual identity. Some men who have sex with men do not associate themselves with any particular identity, community or terminology.

O

Out (verb): To reveal the covert sexual orientation, gender identity or sex characteristics of someone. (noun): The fact of being open about one’s SOGIESC. Some LGBTI people “come out” or are out in some social circles and not others.

P

Pronouns: Pronouns are the way we refer to someone without using their name. A person’s pronouns are part of a person’s identity, just as a name is. It’s important that, like a person’s name, we take the time to learn a person’s pronouns rather than making assumptions about how to refer to them in conversation or writing. While it may be our habit to refer to everyone as “he” or “she” based on appearances, we recognize that gender is a spectrum and we can’t assume a person’s gender or a person’s pronouns based on appearances.¹¹

Pronouns differ from one language to another. In some languages, gender-neutral pronouns exist. In English, common gendered pronouns are “he” or “she”. Some people use the gender-neutral “they”.

¹¹University of Northern Iowa, Gender & Sexuality Services, [Pronouns](#).

Q

Queer: “Originally an offensive term used to degrade sexual and gender minorities, this term has intentionally been re-appropriated (taken back) and now refers to a political, sexual and/or gender identity that is intentionally and visibly different from the norm. ‘Queer’ is often used as a broad term for all people who are not strictly heterosexual or CIS gendered.”¹²

R

Rainbow family: A family in which a child has (or several children have) at least one parent who identifies themselves as lesbian, gay, bisexual, trans, intersex or queer.

S

Sex: The classification of a person as male or female. Sex is assigned at birth and written on a birth certificate, usually based on the appearance of the baby’s external anatomy and on a binary vision of sex which excludes intersex people. A person’s sex, however, is actually a combination of bodily characteristics including: chromosomes, hormones, internal and external reproductive organs, and secondary sex characteristics.¹³ Most countries only allow to record “male” or “female” on an infant’s birth certificate (see also “sex binary”).

Sex binary: “A system of categorising all people into two sexes: male or female. It makes people who do not fit this binary invisible, oppressed or stigmatised, and gives power to people who uphold the sex binary. This is especially true for intersex and transsexual people whose experiences are not acknowledged or reflected in society, and who when discovered can be subject to harassment and violence.”¹⁴

Sex characteristics: The characteristics that compose a person’s physio-anatomical sex, including genitals, gonads, hormones, internal organs and chromosome patterns. These characteristics may be apparent from conception or at birth, or emerge later in life, often at puberty.

Sexual and gender minorities: An umbrella term used to designate people who are part of a minority of the population and discriminated against because of their sexual orientation, gender identity or gender expression.

¹² Talia Meer, *All the (Tricky) Words: A Glossary of Terms on Sex, Gender and Violence* (Cape Town, GHJRU, University of Cape Town, 2014).

¹³ ILGA-Europe, *Glossary beginning with s*.

¹⁴ Talia Meer, *All the (Tricky) Words: A Glossary of Terms on Sex, Gender and Violence* (Cape Town: GHJRU, University of Cape Town, 2014).

Sexual orientation: Sexual orientation is understood to refer to each person's capacity for profound emotional, affectional and sexual attraction to, and intimate and sexual relations with, individuals of a different gender or the same gender or more than one gender.¹⁵

SOGIESC: This acronym derives from the terms sexual orientation, gender identity, gender expression and sex characteristics. These are not specific to LGBTI people: everyone has them. A person can be oppressed because of their sexual orientation, gender identity, gender expression and/or sex characteristics.

State-sponsored homophobia: The practice of criminalizing sexual activity between consenting adults of the same sex.

T

Trans (or transgender): As used in this publication, transgender describes persons whose gender identity (their internal sense of their gender) is different from the sex they were assigned at birth. Trans is an umbrella term that describes a wide variety of cross-gender behaviours and identities. It is not a diagnostic term and does not imply a medical or psychological condition. This term should be avoided as a noun: a person is not “a trans”; they may be a trans person. It is important to understand that not all people who are considered trans from an outsider's perspective in fact identify as transgender, nor will they necessarily use this term to describe themselves. In many countries there are indigenous terms that describe similar cross-gender identities.

Trans people may have undergone or plan to undergo hormonal treatment or surgery, or they may not, may express their gender in very different ways (see “gender expression”) and may identify with one, multiple genders or no gender at all.

Transition: A series of steps a person may take to live in the gender they identify with. A person's transition can be social and/or medical. Steps may include: coming out to family, friends and colleagues; dressing and acting according to one's gender; changing one's name and/or sex/gender on legal documents; medical treatments including hormone therapies and possibly one or more types of surgery.¹⁶

Transphobia: Prejudice directed at transgender people because of their actual or perceived gender identity or expression. Transphobia can be structural, i.e. manifested in policies, laws and socioeconomic arrangements that discriminate against transgender people. It can also be societal, when transgender people are rejected or mistreated by others. Additionally, transphobia can be internalized when transgender people accept and reflect such prejudicial attitudes about themselves or other transgender people.

¹⁵ Introduction to the Yogyakarta Principles.

¹⁶ ILGA-Europe, *Glossary beginning with T*.

PART I

OVERVIEW

This Part introduces the current situation of LGBTI people around the world and explains why it is important that MPs take urgent action to protect their human rights.



**LGBTI INCLUSION MATTERS
TO EVERYONE, AND YOU,
AS A MEMBER OF PARLIAMENT,
CAN PLAY A KEY ROLE IN
MAKING IT HAPPEN.**

1. LGBTI inclusion matters ... to everyone

When societies determine that all their members must be enabled to participate in all areas of life on a full and equal basis, they pave the way for resilience, sustainability and peace. That is one of the reasons why countries around the world pledged to “leave no one behind” when adopting the Sustainable Development Goals (SDGs).

While different groups of people are marginalized in different countries for different reasons, LGBTI people suffer from exclusion and human rights violations everywhere in the world. Stigma, discrimination and violence against LGBTI people also hurts families and communities, and their exclusion from equal participation means that countries squander their human capital and do not reach their full potential.



[The reality] is still **a systematic pattern of violence and abuse, even killings, for millions of LGBTI people around the world** – with many crimes not even being investigated.

No regime is immune.”

– Michelle Bachelet, UN High Commissioner for Human Rights, speaking at the Interparliamentary Plenary Assembly, Copenhagen 2021 Human Rights Forum, August 2021.

1.1 Who are LGBTI people?

LGBTI people are like anybody else: they aspire to work, take care of their families and loved ones, and bring meaningful contributions to their communities and societies.

LGBTI people exist in all regions, contexts and cultures, and have done throughout history.

LGBTI people are commonly discriminated against, oppressed and subjected to violence because they are seen as defying gender norms.

LGBTI people are not a homogeneous group, as suggested by the term “LGBTI community”. There are various sub-populations of LGBTI persons. The status of any one person within these populations is only part of their identity and lived experience.

“Across the Middle East and North Africa, the rampant policing of non-normativity of all kinds is a product of coordinated political strategies that governments deploy to maintain a status quo that serves the economic and political interests of the most powerful. These conditions yield shared experience, shaping coalitions and communities. But these trajectories should be approached as contextual, situational, functional, and strategic. Our political movements are not about naming or claiming identities for the sake of being recognized or visible to a dominant gaze. They are primarily a fight for bodily autonomy, reproductive justice, access to socioeconomic power, and free mobility.”

– Rasha Younes, “The trouble with ‘the LGBT community’”, *The Nation*, 28 July 2021.

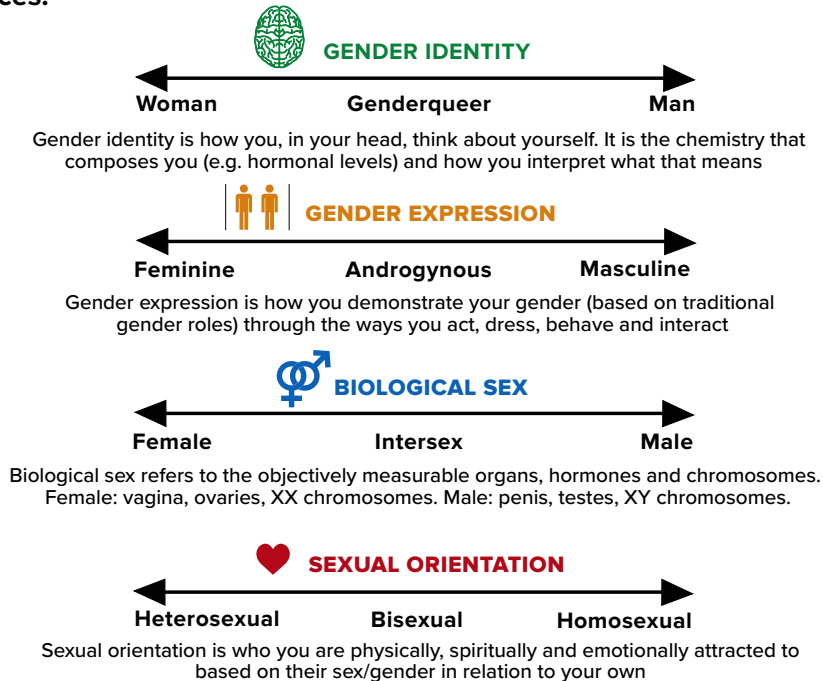
There is no universally accepted term for LGBTI people. In this Handbook, we use several terms and concepts to capture their diversity (see the Glossary). Three key terms are:

LGBTI: This acronym derives from five words: lesbian, gay, bisexual, transgender and intersex. So it encompasses several groups of individuals. LGBTI is the most commonly used term in the international human rights field. However, it has its origins in the Global North and therefore has its limitations. It groups individuals according to identity categories (e.g. “lesbian”) that are not universal: people identify themselves in a myriad of ways, or sometimes do not identify within just one given category. The term LGBTI may include, for example, people who are non-binary, gender fluid or pansexual, but also people such as *hijras* in India and Bangladesh, *mahu* in French Polynesia, *muxe* in Mexico or *two-spirit* in North America. Virtually every language has its own terms for sexual and gender minorities, and while these words may be used in a negative or derogatory manner, they demonstrate the universality of sex, and sexual and gender diversity.

What LGBTI people all have in common is that they are seen as defying the gender norms and expectations of society. For example, lesbian, gay and bisexual (LGB) people counter the gendered expectation that people of the same gender cannot have relationships with each other. Trans(gender) people counter the assumption that gender identity is always aligned with the sex assigned at birth. Non-binary people counter the assumption that gender identity must fall on one or the other side of the gender binary (male or female). Intersex people counter the expectation that biological sex characteristics can always be classified as male or female without ambiguity.

Breaking through the binary

There is now wide global consensus among scientists that homosexuality is a normal and natural variation of human sexuality without any inherently detrimental health consequences.



Source: Sam Killermann, “Breaking through the binary: Gender as a continuum”, *Issues*, No. 109, December 2014.

Other acronyms are increasingly used, such as LGBTIQ+, in which Q stands for “queer” and + acknowledges individuals of diverse sex characteristics, gender identities and sexual orientations who do not identify with LGBTIQ. We do not use the acronym LGBTIQ+ in this Handbook because the word “queer” does not translate well in every context.¹⁷

SOGIESC: This acronym derives from the terms sexual orientation, gender identity, gender expression and sex characteristics. It is important to note that these are not specific to LGBTI people: everyone has them. A person can be excluded or discriminated against because of their sexual orientation, gender identity, gender expression and/or sex characteristics.

Intersectionality¹⁸: This term highlights the specific forms of oppression that people face at the intersection of identity categories. For example, a person who is both trans and of colour does not experience transphobia and racism separately; their identity as a trans and racialized person exposes them to specific types of discrimination. Thus, LGBTI people may experience oppression on multiple grounds, not only because of their SOGIESC.

¹⁷ “Queer: Historically a negative term in English-speaking contexts, “queer” has since been reclaimed by many LGBTIQ+ people to describe a wide range of diverse sexual orientations, gender identities and expressions in a positive way. While “queer” is used by some individuals who feel that they do not conform to a given society’s economic, social and political norms based on their SOGIESC, it is not always acceptable to persons of diverse SOGIESC and should therefore be used with caution.” (UNHCR, Working with LGBTIQ+ persons in forced displacement, 2021).

¹⁸ This term was coined by Black feminist lawyer Kimberlé Crenshaw in 1989.

“We tend to talk about race inequality as separate from inequality based on gender, class, sexuality or immigrant status. What’s often missing is how some people are subject to all of these, and the experience is not just the sum of its parts.”

– Kimberlé Crenshaw, *Intersectional feminism: what it means and why it matters right now*, UN Women, 1 July 2020.

“This is what I say to my comrades in the struggle when they ask me why I waste time fighting for moffies.¹⁹ This is what I say to gay men and lesbians who ask me why I spend so much time struggling against apartheid when I should be fighting for gay rights. “I am black and I am gay. I cannot separate the two parts of me into secondary or primary struggles. In South Africa I am oppressed because I am a black man, and I am oppressed because I am gay. So when I fight for freedom I must fight against both oppressions.”²⁰

– Simon Nkoli, anti-apartheid and gay activist, at South Africa’s first gay pride march, 1990.

1.2 Why should MPs take urgent action for LGBTI human rights?

When LGBTI people are legally and socially excluded, they are denied the possibility to develop their full potential, take care of their families, and make meaningful contributions to their societies.

MPs in many countries have taken action to address the roots of the exclusion of LGBTI people from society, and there have been many successes in recent years (see section 6). For example:

- Between 2019 and 2021, **Angola**, **Botswana**, **Bhutan** and **Gabon** decriminalized same-sex activity between consenting adults, either through legislation or strategic litigation.
- More countries are reforming their laws to remedy exclusion and prioritizing the human rights of LGBTI people. In 2018, **Pakistan** passed one of the most progressive legal gender recognition laws, soon after introducing an “X” gender marker on passports.
- There is growing understanding of the abuses perpetrated on intersex people and moves to counter this are gaining traction; more countries have adopted legislation banning intersex genital mutilation (IGM), such as **Portugal**, and many governments are working with medical representatives to address harmful practices.

¹⁹ Moffie is a derogatory Afrikaans term for a gay man.

²⁰ Shaun De Waal and Anthony Manion, eds., *Pride: Protest and Celebration* (Johannesburg, Fanele, 2006), p. 37.

- Inclusive anti-discrimination bills that cover not only sexual orientation but also gender identity and sex characteristics are becoming more common. **Albania** and **Serbia** provide recent examples.
- Recognition of same-sex relationships and diverse family formations (such as “Rainbow families”) is progressing, with more countries adopting legislation on civil partnership, marriage equality and filiation of children by same-sex couples.
- Countries and international organizations are adopting legislation, policies and strategies that are inclusive of LGBTI people. Recent examples include **Argentina**, the **European Union (EU)**, **South Africa**, **Thailand** and the **UN**, all of which have developed and adopted LGBTI strategies, often spanning both domestic and international policy.

In the Global South, progress on legislation and policies is multiplying, with countries making groundbreaking advances in decriminalizing same-sex sexual activity, protecting LGBTI people against discrimination and violence, or developing policies that target the health inequalities they face. Some of these advances, made in many countries, are discussed in section 6.

But while there are many reasons to celebrate progress, there is much more work to be done.



We are at a stage where there is tremendous, one might say unprecedented progress. There are trans people and gender-non-conforming people and gay people, and lesbian people and bisexual people who have been elected to offices around the world. There’s a tremendous amount of advance of rights, both in the global north and the global south, and of course tremendous representation in the media. ... But the violence and the backlash is also unprecedented and in some places in the world, historic.”

– Imara Jones, journalist and moderator of the [first high-level meeting on gender diversity and non-binary identities](#) held at UN headquarters, New York, 15 July 2019.

Globally, the situation of LGBTI people is far from positive, and often complex. The stereotype of a progressive Global North and a less progressive Global South has never been accurate – the United Kingdom pioneered anti-LGBTI laws banning the “promotion of homosexuality” in the late 1980s, while South Africa pioneered constitutional protections linked to sexual orientation in the 1990s.

More recently, in Europe and North America, several countries have been facing considerable setbacks as political parties and political representatives spread hate speech, protest progressive legislation, and introduce discriminatory laws.

Furthermore, the Covid-19 pandemic has shown how crises can exacerbate the inequalities faced by members of vulnerable groups – such as LGBTI people.

“With its harrowing human, social and financial costs, the COVID-19 pandemic acts as a magnifying glass on those realities, to the point where they become apparent even to the untrained eye, and thus impossible to ignore – except, of course, intentionally.”

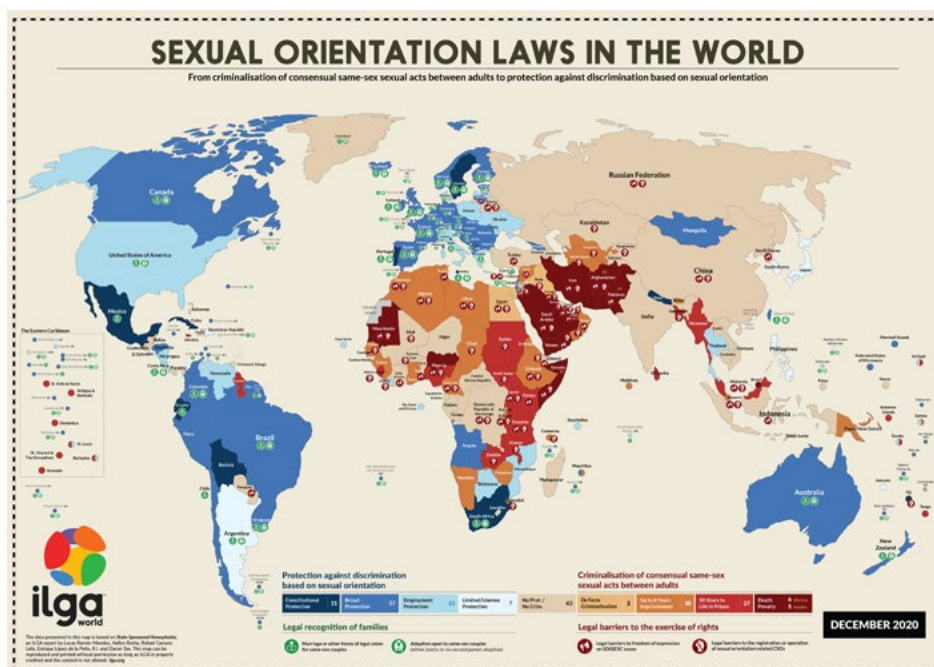
– Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity, Victor Madrigal-Borloz, report on Protection against violence and discrimination based on sexual orientation and gender identity (A/75/258), 28 July 2020.

1.3 What is at stake for LGBTI people right now?

Thousands of trans people around the world are murdered every year. The numbers are massively underreported and increase every year. “Due to data not being systematically collected in most countries, added to the constant misgendering by families, authorities and media, it is not possible to estimate the number of unreported cases.”²¹

70 Member States of the UN expressly criminalize consensual same-sex activity in 2021, as does one semi-independent jurisdiction (the Cook Islands), and two others (Egypt and Iraq) apply de facto criminalization.

The death penalty is the legally prescribed punishment for consensual same-sex activity in six Member States of the UN (Brunei, Iran, Mauritania, 12 northern states of Nigeria, Saudi Arabia and Yemen).²²



Source: International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA) World, “Maps – Sexual orientation laws”, 2020.

²¹ Carsten Bolzer and others, *Transrespect versus Transphobia Worldwide: A Comparative Review of the Human-rights Situation of Gender-variant/Trans People*, TvT Publication Series, vol. 6. TransgenderEurope; *Transrespect Versus Transphobia Worldwide (TvT)* (Berlin, 2012); TvT, [Map: Trans Murder Monitoring](#).

²² ILGA World: Lucas Ramon Mendos and others, *State-Sponsored Homophobia 2020: Global Legislation Overview Update* (Geneva, ILGA, December 2020)

Only three countries (Malta, Portugal and Germany) **prohibit unconsented surgical and other medical interventions on intersex infants** as at 2021. The consequences of such surgeries, combined with the stigma faced by intersex people, are multiple: chronic health issues, pain, and mental health issues.

LGBTI exclusion costs Kenya US\$1.3 billion every year because of poor health outcomes, reduced tourism and lower productivity.²³ **In the Czech Republic, the annual cost of exclusion is estimated at US\$1.7 billion** because of unequal health outcomes, economic discrimination, and lost revenue from same-sex weddings.²⁴ **In the English-speaking Caribbean,²⁵ anti-LGBTI laws and stigma diminish tourism at a cost of between US\$423 million and US\$689 million every year.**²⁶

Up to 40 percent of transgender women are estimated to be living with HIV. In the African region, transgender people are at 13 times greater risk of acquiring HIV than adults in the general population.²⁷

These are the statistics of exclusion, and they diminish us all.

“So long as people face criminalization, bias and violence based on their sexual orientation, gender identity or sex characteristics, we must redouble our efforts to end these violations.”

– UN Secretary-General António Guterres, [Video message to the Ministerial Level meeting of the UN LGBTI Core Group](#), 25 September 2018.

At the Interparliamentary Plenary Assembly in Copenhagen in August 2021, the UN High Commissioner for Human Rights, Michelle Bachelet, called for freedom to both “be who you are without fear of persecution” and “to love.”

She warned that 69 countries continue to have discriminatory laws used to “arrest, harass, blackmail, and exclude”, on the grounds of perceived sexual orientation or gender identity of individuals. In five of these States, laws are so extreme that they include the death penalty. Efforts to repeal all laws that “deny the basic humanity, dignity, and rights of people, must be accelerated”, she said.

Despite the fact that more comprehensive national anti-discrimination laws are being adopted, the High Commissioner reminded delegates that “only one third of countries ban discrimination based on sexual orientation”, just one in 10 against trans individuals, and only one in 20 against intersex people.

²³ Open For Business, [Research Series. The Economic Case for LGBT+ Inclusion in Kenya](#), 2019.

²⁴ Open For Business, [Economic Brief. The Economic and Business Case for LGBT+ Inclusion in the Czech Republic](#), 2020.

²⁵ Antigua and Barbuda, the Bahamas, Barbados, Belize, Dominica, Grenada, Guyana, Jamaica, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, and Trinidad and Tobago.

²⁶ Open For Business, [Research Series. The Economic Case for LGBT+ inclusion in the Caribbean](#), 2021.

²⁷ UNAIDS, [Seizing the moment. Tackling entrenched inequalities to end epidemics](#), 2020.

PART II

LGBTI RIGHTS ARE HUMAN RIGHTS

This Part provides a knowledge base on the legal and rights frameworks most relevant to LGBTI people, and their key recommendations relevant to LGBTI human rights. It explains how you can work to protect and defend LGBTI human rights.



THE LEGAL OBLIGATIONS OF STATES TO RESPECT, PROTECT AND FULFIL THE HUMAN RIGHTS OF LGBTI PEOPLE ARE WELL ESTABLISHED WITHIN THE INTERNATIONAL HUMAN RIGHTS FRAMEWORK. HUMAN RIGHTS DECLARATIONS, TREATIES, BODIES AND MECHANISMS CLARIFY STATES' OBLIGATIONS TO ENSURE THAT THESE RIGHTS CAN BE REALIZED BY ALL PEOPLE.

2. Global human rights frameworks

The UN maintains and exercises the explicit mechanisms of the international legal and human rights framework. It is the main tool for developing international recognition and equal rights for LGBTI people in their lived situations around the world. Yet the UN struggles to progress the necessary measures to strengthen and defend the rights contained in the relevant instruments. A bloc of resistant Member States has succeeded in preventing the adoption of a binding declaration or similar instrument to strengthen protections for LGBTI human rights. Nonetheless, Member States have via the UN consistently and increasingly expressed official support and commitment to LGBTI human rights through various means, such as resolutions and recommendations.



We have a responsibility to set standards; that is one of our mandates in terms of policies for Member States and for nations ...

We are aware that the United Nations is not always united on all the issues ... that should not be a reason for us not to stand up for the truth and to push the envelope and ensure that the equality of all genders at some point becomes the norm and the new normal.



One of our responsibilities is to help countries change their laws ... We have a responsibility to work with [those Member States that still criminalize same-sex activity] and the community, activists and the many enlightened people in those countries."

– Immediate past UN Women Executive Director Phumzile Mlambo-Ngcuka, at the UN high-level meeting on gender diversity and non-binary identities, New York, 15–18 July 2019.

Conceived in 1948 as “a common standard of achievement for all peoples and all nations”, the Universal Declaration of Human Rights (UDHR) has become a yardstick by which to measure the degree of respect for, and compliance with, international human rights standards.²⁸

The International Bill of Human Rights consists of the UDHR, the International Covenant on Economic, Social and Cultural Rights (ICESCR), and the International Covenant on Civil and Political Rights (ICCPR) and its two Optional Protocols.²⁹ Other core conventions are the Convention on the Elimination of All Forms of Discrimination against Women, Convention against Torture and Other Cruel, Inhuman or Degrading Treatment, Convention on the Rights of the Child and their regional counterparts (see section 3). Together, these core documents are generally accepted as setting out jus cogens – fundamental principles of international human rights law from which individual nations are not free to derogate.

²⁸ OHCHR, [Human Rights Law](#).

²⁹ The coming into force of the Covenants, by which States parties accepted a legal as well as a moral obligation to promote and protect human rights and fundamental freedoms, did not in any way diminish the widespread influence of the Universal Declaration. On the contrary, the very existence of the Covenants, and the fact that they contain the measures of implementation required to ensure the realization of the rights and freedoms set out in the Declaration, gives greater strength to the Declaration.

In 1994, the predecessor of the UN Human Rights Council, the Human Rights Committee, found, on a complaint against Australia, that a Member State of the UN whose laws criminalize consensual same-sex activity in private (whether or not those laws are enforced) is in breach of international law. Specifically, the Committee established that, under the ICCPR and its Optional Protocol, (i) the reference to “sex” includes sexual orientation, and (ii) adult consensual sexual activity in private is covered by the concept of “privacy”; furthermore, arbitrary interference with that right is prohibited.³⁰ The Human Rights Committee has noted that States party to the ICCPR have a positive obligation to “adopt legislative and other measures to give effect to the prohibition against such interferences and attacks as well as to the protection of this right [privacy].”³¹ There are particular benefits to making such provisions explicit in national legislation (see section 6). Regrettably, however, in many jurisdictions the codification of international human rights has in itself been insufficient to secure LGBTI rights.³²

The Human Rights Council adopted its first resolution on human rights, sexual orientation and gender identity in 2011.³³ The resolution recognizes that acts of violence and discrimination are committed against LGBTI persons around the world. The UN has since adopted multiple resolutions on the rights of LGBTI persons (see section 2.1.1, “Relevant recommendations of UN treaty bodies and special procedures”).

Equality and non-discrimination are cornerstones of human rights. The Sustainable Development Goals made them a central element of the global development commitments that call on countries to reduce inequalities, including by removing the drivers of inequalities, such as discriminatory laws and policies.

We live in one of the most unequal times in history,” said the UNAIDS Executive Director, Winnie Byanyima. “What the HIV pandemic had already revealed, COVID-19 has again confirmed: crises and disasters are felt most strongly along the fault lines of society. Those who experience systemic discrimination and inequality are pushed further and further behind.”



– Source: UNAIDS www.unaids.org/en/resources/presscentre/pressreleaseandstatementarchive/2021/december/20211210_human-rights

³⁰ CCPR/C/50/D/488/1992.

³¹ General comment No. 16 (1988), para. 1.

³² In Tunisia, for example, the 2014 Constitution includes a right to privacy and the Minister of Justice was quoted as indicating that the anti-MSM law would be incompatible with that provision, but no action has been taken.

³³ A/HRC/RES/17/19, 17 June 2011.

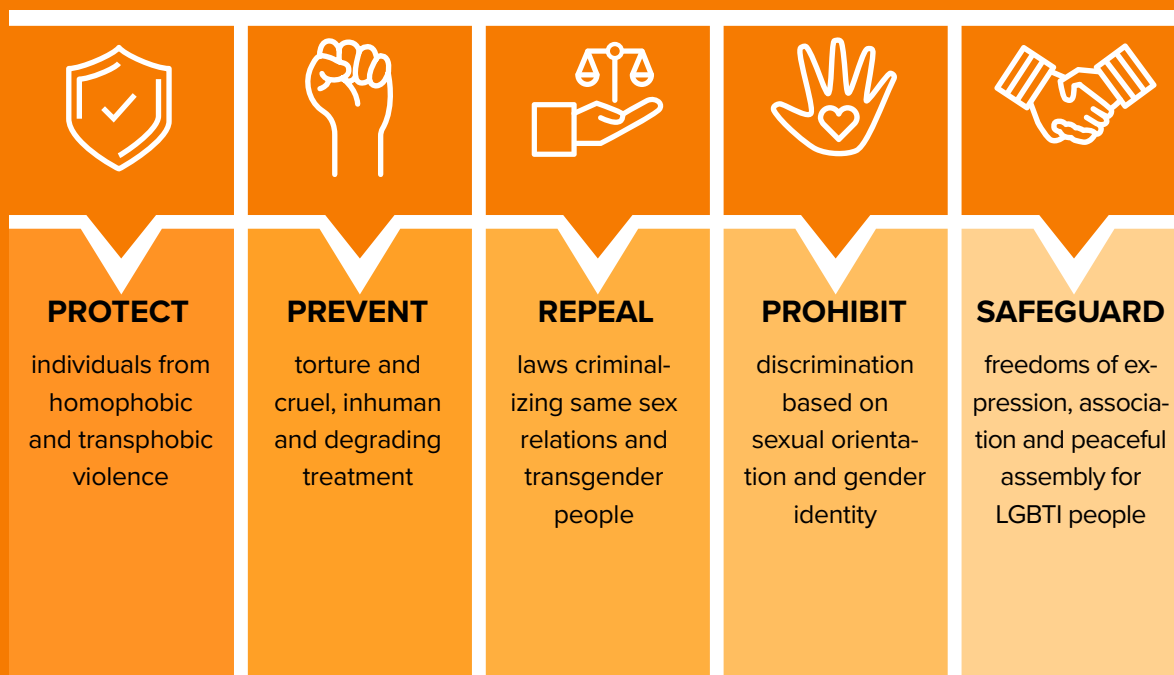
Your country’s international legal obligations are a critical entry point for your advocacy on the rights of LGBTI people.

Human rights principles, norms and standards underpin efforts throughout the world to raise awareness about and advocate for specific actions focused on ending discrimination against LGBTI people. This does not mean that new “LGBTI rights” are being established that will benefit or apply only to LGBTI people. On the contrary, under the international human rights framework, *human rights are universal and inalienable*; this means that they are inherent to all human beings and must apply equally everywhere and for everyone.

States are required to protect LGBTI people from being discriminated against and to take specific steps in response if discrimination does occur, even if non-discrimination on the basis of SOGIESC is not explicitly referred to in international human rights treaties.

Protecting LGBTI people from violence and discrimination does not require a new set of human rights laws or standards. States are legally required to safeguard the human rights of LGBTI people. This is well established in international human rights law. It is based on the Universal Declaration of Human Rights and other international human rights treaties. Protecting LGBTI people from violence and discrimination does not require a new set of human rights laws or standards. States are legally required to safeguard the human rights of LGBTI people. This is well established in international human rights law. It is based on the Universal Declaration of Human Rights and other international human rights treaties.

The core legal obligations of States with respect to protecting the human rights of LGBT people include obligations to:



OHCHR, [About LGBTI people and human rights](#).

The Human Rights Council’s Universal Periodic Review (UPR) process is a key mechanism for upholding human rights, including those of LGBTI people. Each of the 193 Member States of the UN is subject to the UPR, whereby it is reviewed by other States every four to five years. If a State’s human rights record is found wanting, the Council issues the State a set of recommendations to amend its laws or take other steps to protect human rights.

The UN human rights “treaty bodies” are committees of independent experts that monitor implementation of the core international human rights treaties. Many of these have found that the rights of LGBTI people have been violated (see section 2.1.1) and have held States accountable for these violations.

Also important in monitoring States’ adherence to their international human rights obligations are the “special procedures” of the Human Rights Council. These are independent human rights experts with mandates to report and advise on human rights from a thematic or country-specific perspective. They are not paid and are elected for three-year mandates that can be reconducted for another three years. As of September 2020, there are 44 thematic and 11 country mandates.

By signing an international treaty or similar instrument, your country agreed to be bound by its provisions. These are legal obligations.

At the country level, parliament has a responsibility to:

- ensure compliance with international human rights obligations, and
- make national legislation and policies coherent and consistent with those obligations.

As part of your oversight role of your government’s implementation of laws and policies, you have significant opportunities to remind the government (publicly and privately, depending on your judgement about what will be more effective) of its obligations and draw attention to any failures to fulfil them. You and your colleagues can also use your country’s international obligations as a useful framework to advance the human rights of LGBTI people, for example by requiring those obligations to form part of a template or checklist in the work of parliamentary committees.

The first step is to familiarize yourself with international human rights norms and standards. This includes the relevant regional human rights declarations, mechanisms and bodies that your country has agreed to be bound by (see section 3) and key recommendations made by the UN treaty bodies (see section 2.1.1).

2.1 The UN treaty bodies and Universal Periodic Review

Each State party to a treaty has an obligation to take steps to ensure that everyone in the State can enjoy the rights set out in the treaty. There are 10 treaty bodies attached to nine core human rights treaties and one optional protocol.³⁴

³⁴ OHCHR, [What do treaty bodies do?](#)

Title	Corresponding treaty, convention or covenant
Human Rights Committee (HRCtee)	International Covenant on Civil and Political Rights
Committee on Economic, Social and Cultural Rights (CESCR)	International Covenant on Economic, Social and Cultural Rights
Committee on the Elimination of Discrimination against Women (CEDAW)	Convention on the Elimination of All Forms of Discrimination against Women
Committee against Torture (CAT)	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment
Subcommittee on Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (SPT)	Optional Protocol of the Convention against Torture
Committee on the Rights of the Child (CRC)	Convention on the Rights of the Child
Committee on the Elimination of Racial Discrimination (CERD)	International Convention on the Elimination of All Forms of Racial Discrimination
Committee on the Rights of Persons with Disabilities (CRPD)	Convention on the Rights of Persons with Disabilities
Committee on Migrant Workers (CMW)	International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families
Committee on Enforced Disappearances (CED)	International Convention for the Protection of All Persons from Enforced Disappearance

Treaty bodies, except the SPT, perform the following duties:

- **Country periodic reviews:** These are periodic reports submitted by State parties on how rights are being implemented. Based on dialogue with States and other stakeholders, the Committee publishes its concerns and recommendations, referred to as “concluding observations”.
- **Country inquiries:** Some Committees³⁵ may, under certain conditions, initiate a country inquiry if it receives reliable information containing well-founded indications of serious, grave or systematic violations of the conventions in a State party.
- **Individual complaints:** Some Committees³⁶ can, under certain conditions and if the State ratified the relevant optional protocol, receive petitions from individuals who claim that their rights under the treaty have been violated by a State party. When the Committee reveals a violation, it obliges the State to provide a remedy to the petitioner, and also prevent similar violations in the future.³⁷
- **General recommendations or comments:** These provide interpretation of the content of human rights provisions on thematic issues or methods of work.

UN treaty bodies are increasingly scrutinizing States’ treatment of LGBTI people. The number of references to SOGIESC and/or LGBTI people by all treaty bodies in their concluding observations increased from 54 references in 2014 to 138 in 2018.³⁸

Under the UPR, as at 2017, more than 1,375 recommendations on SOGIESC issues had been made to more than 158 countries, comprising 2.5 percent of all UPR recommendations made between 2006 and 2017.³⁹

How you can work with treaty bodies and the Universal Periodic Review

Parliaments should be actively engaged with international and regional human rights mechanisms, including the Human Rights Council, its UPR mechanism and human rights treaty bodies. Parliament has a crucial role in the UPR process in ensuring that the recommendations issued by the international human rights mechanisms are translated into the national legislation and are implemented at the national level.

MPs are well placed to support national consultation processes preceding the preparation of reports and there should be space for parliament to debate reports, oversee recommendations, question government and establish follow-up measures where needed.⁴⁰ A number of countries also include MPs in their national delegations to sessions of treaty bodies.

As an MP, you can use the recommendations made by UN treaty bodies and special procedure mandate holders to monitor the execution of your country’s human rights obligations.

³⁵ CESCR, CAT, CEDAW, CRPD, CED and CRC when the relevant optional protocol enters into force.

³⁶ CCPR, CERD, CAT, CEDAW, CRPD and CED.

³⁷ Provided that the State has recognized the competence of the Committee to receive such complaints and that domestic remedies have been exhausted.

³⁸ Kseniya Kirichenko, [UN treaty bodies advance LGBTI rights](#), Open Global Rights, 22 October 2019.

³⁹ Diana Carolina Prado Mosquera, [UPR SOGIESC UPR Advocacy Toolkit](#) (ILGA World, 2017).

⁴⁰ A/HRC/38/25.

You can take concrete actions such as these:

- Follow up on the recommendations, concluding observations and other comments on LGBTI human rights formulated by treaty bodies regarding your country;
- Check whether any action has been taken to implement these recommendations and, if not, use parliamentary procedure to determine the reasons and to initiate follow-up action;
- Make sure that special rapporteurs conducting on-site missions visit your parliament or the competent parliamentary committees, and that the parliament receives a copy of their reports.

To monitor your country's compliance with its obligations under human rights treaties, make sure that:

- The situation of LGBTI people is included in the report (check with civil society organizations (CSOs) for this purpose);
- Parliament (through the competent committees) is involved in the preparation of the State report, provides input in terms of information, ensures that its action is properly included in the report and, in any case, is informed of its contents;
- The report complies with guidelines on reporting procedures and takes account of the treaty bodies' general recommendations on LGBTI human rights and concluding observations on preceding reports, with reference to any related lessons learned.

— Inter-Parliamentary Union (IPU) and United Nations Office of the High Commissioner, *Human Rights. Handbook for Parliamentarians*, No. 26 (IPU, 2016).

2.1.1 Relevant recommendations of UN treaty bodies, special procedures⁴¹ and the International Labour Organization

Criminalization

States have an obligation under international law to repeal laws that criminalize private, consensual sexual relationships between persons of the same sex, laws that criminalize transgender people based on their gender identity or expression, and other laws that are used to criminalize, prosecute, harass and otherwise discriminate against people based on their actual or perceived sexual orientation and gender identity.

The criminalization of consensual relations, sexual or affective, between persons of the same gender or sex breaches a State's obligations under international law, including the obligations to guarantee equality, non-discrimination and privacy.

An individual's rights are violated even if the law in question is never enforced.

- United Nations human rights experts have had this consistent position since the 1994 Human Rights Committee decision *Toonen v. Australia*.

⁴¹ These selected recommendations have been drawn from OHCHR, [Born Free and Equal: Sexual Orientation, Gender Identity and Sex Characteristics in International Human Rights Law](#), 2nd ed. (2019).

Even when based on national laws, arrest or detention on discriminatory grounds such as sexual orientation or gender identity is in principle arbitrary and prohibited under international law.

- Human Rights Committee, general comment No. 35 (CCPR/C/GC/35), 2014.
- Report of the Working Group on Arbitrary Detention (A/HRC/16/47), 2011.

Different ages of sexual consent for same-sex and different-sex relationships constitute discrimination on the basis of sexual orientation.

- Concluding observations of the Committee on the Rights of the Child: on Chile (CRC/C/CHL/CO/3), 2007; Isle of Man, United Kingdom (CRC/C/15/Add.134), 2000; Austria (CCPR/C/79/Add.103), 1998.

States should ensure that the death penalty is not imposed as a sanction for consensual same-sex, sexual relations as it violates the Universal Declaration of Human Rights (art. 3) and the International Covenant on Civil and Political Rights (art. 6).

- Human Rights Council Resolution A/HRC/RES/36/17, 2017. Other treaty bodies and special procedures have reaffirmed this.

"The 'mere possibility' that [the death penalty] can be applied threatens the accused for years, and is a form of cruel, inhuman or degrading treatment or punishment. Its status as a law justifies persecution by vigilante groups, and invites abuse."

- Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions (A/HRC/8/3/Add.3), 2008, para. 76.

Laws on "debauchery" and "vagrancy", and other laws used to penalize sex work, are often systematically applied in a discriminatory manner to target people based on their perceived sexual orientation and gender identity, regardless of whether or not the individuals detained are LGBTI and/or engaged in sex work. Such laws should be repealed.

- Human Rights Committee, Concluding observations on the Philippines (CCPR/C/PHL/CO/4), 2012.
- Report of the Working Group on Arbitrary Detention (A/HRC/10/21/Add.3), 2009.
- Report of the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity (A/72/172), 2017.

Discrimination

States are complicit in violence against women and LGBTI persons whenever they create and implement discriminatory laws that trap them in abusive circumstances.

- Report of the Special Rapporteur on torture (A/HRC/31/57), 2016, para. 10

UN treaty bodies and special procedures have repeatedly taken the following positions on discrimination:

- Sexual orientation, gender identity and sex characteristics are prohibited grounds of discrimination under international law.
- States should adopt anti-discrimination legislation that explicitly includes sexual orientation, gender identity and sex characteristics as grounds for protection.
- All lists of prohibited grounds of discrimination in treaties include "sex", which the Human Rights Committee has interpreted as including sexual orientation, and also contain reference to "other status", which treaty bodies have interpreted as including sexual orientation and gender identity.

- The right to be protected from discrimination applies to the enjoyment of all civil, political, economic, social and cultural rights, including the right to work, to education, and to the highest attainable standard of physical and mental health, including sexual and reproductive health.

Anti-discrimination legislation should integrate intersecting forms of discrimination, including on grounds of sex, gender, race, ethnicity, religion or belief, health, status, age, class, caste, sexual orientation and gender identity, and to implement policies and programmes designed to eliminate such occurrences.

- Committee on the Elimination of Discrimination against Women, General comment No. 28 (CEDAW/C/GC/28), 2010, para. 18.

The International Covenant on Economic, Cultural and Social Rights requires States, as a minimum core obligation, to “guarantee through law the exercise of the right [to work] without discrimination of any kind as to ... sexual orientation, gender identity, intersex status.”

- Committee on Economic, Social and Cultural Rights, General comment No. 23 (E/C.12/GC/23), 2016, para. 65(a); General comment No. 18 (E/C.12/GC/18), 2006, para. 12(b)(1).

Everyone has the right to adequate housing, without discrimination. States parties must immediately adopt the necessary measures to prevent, diminish and eliminate the conditions and attitudes which cause or perpetuate substantive or de facto discrimination in access to housing. This includes legislation to ensure that individuals and entities in the private sphere do not discriminate on prohibited grounds, including sexual orientation, gender identity and sex characteristics.

- Committee on Economic, Social and Cultural Rights, General comment No. 20 (E/C.12/GC/20), 2009.

States have a positive obligation to provide legal recognition to couples, regardless of sexual orientation, gender identity and sex characteristics, as well as to their children. Legal recognition may take various forms, ranging from civil unions and civil partnerships to marriage.

- Report of the United Nations High Commissioner for Human Rights on discrimination and violence based on sexual orientation and gender identity (A/HRC/29/23), 2015.
- *Young v. Australia*, Human Rights Committee, Communication No. 941/2000 (CCPR/C/78/D/941/2000).

Convention No 111 of the International Labour Organisation (ILO) prohibits discrimination, including on the basis of sex or “such other distinction, exclusion or preference which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation” (art. 1).

Right to health

On 17 May 1990, the General Assembly of the World Health Organization (WHO) removed homosexuality from its list of diseases. There had never been a scientific reason for it to be considered a mental disorder.

Outdated medical classifications that pathologize LGBTI persons, in particular transgender and intersex adults, adolescents and children, should be reformed, and States should take measures to ensure that LGBTI people can access health services, including gender-affirming health care for transgender people, based on informed consent and free from stigma, pathologization and discrimination.

- Joint statements of international and regional human rights experts: “Pathologization – Being lesbian, gay, bisexual and/or trans is not an illness”, 17 May 2016; “End violence and harmful medical practices on intersex children and adults”, 24 October 2016.

“Health facilities, goods and services must be accessible to all, especially the most vulnerable or marginalized sections of the population”... “the Covenant proscribes any discrimination in access to health care and underlying determinants of health, as well as to means and entitlements for their procurement, on the grounds of sexual orientation”.

- Committee on Economic, Social and Cultural Rights, General comment No. 14 (E/C.12/2000/4), 2000, art. 12.

The failure by States to take effective steps to prevent third parties from carrying out practices such as “violence targeting lesbian, gay, bisexual, transgender and intersex persons [...], forced-sterilization, [...] and medically unnecessary, irreversible and involuntary surgery and treatment performed on intersex infants or children” is a violation of their obligation to protect human rights.

- Committee on Economic, Social and Cultural Rights, General comment No. 22 (E/C.12/GC/22), 2016.

The ILO’s HIV and AIDS Recommendation, 2010 (No. 200) is the first internationally sanctioned legal instrument aimed at strengthening the contribution of the world of work to universal access to HIV prevention, treatment, care and support and contains provisions on potentially life-saving prevention programmes and anti-discrimination measures at national and workplace levels.

“[T]he response to HIV and AIDS should be recognized as contributing to the realization of human rights and fundamental freedoms and gender equality for all, including workers, their families and their dependants” (General principle 3(a)).

Surgery and other interventions on intersex children and adults

UN and regional human rights experts, including the Committee on the Rights of the Child, the Committee against Torture, the Subcommittee on Prevention of Torture and the Special Rapporteur on torture, have indicated that States must urgently prohibit medically unnecessary surgery and procedures on intersex children.

- See joint statement of international and regional human rights experts, “End violence and harmful medical practices on intersex children and adults”, 2016.

States should educate medical and psychological professionals about bodily diversity and intersex traits, as well as about the consequences of unnecessary surgical and other medical interventions on intersex children and adults.

- Committee on the Rights of the Child, Concluding observations on New Zealand (CRC/C/NZL/CO/5), 2016, para. 25; Concluding observations on Ireland (CRC/C/IRL/CO/3-4), 2016.

Forced and otherwise involuntary sterilization and treatment of transgender people

Practices such as forced or coerced sterilization or gender reassignment surgery, other medical procedures and medical certification are abusive requirements for recognition of gender identity and are in violation of international human rights standards. “Not only does enforced surgery result in permanent sterility and irreversible changes to the body, and interfere in family and reproductive life, it also amounts to a severe and irreversible intrusion into a person’s physical integrity.”

- Report of the Special Rapporteur on torture (A/HRC/22/53), 2013.

States should respect the physical and psychological integrity of transgender persons by removing all requirements of sterilization, forced surgery and treatment, medical diagnosis or certification from laws, policies and regulations relating to legal gender recognition, reform outdated medical classifications regarding transgender identities and ensure accountability for such practices and remedy for victims.

- Several UN institutions have issued similar statements: the Committee on Economic, Social and Cultural Rights; the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity; the United Nations High Commissioner for Human Rights on discrimination and violence based on sexual orientation and gender identity; the Human Rights Committee; and the Special Rapporteur on torture. See also the joint statement by the Office of the United Nations High Commissioner for Human Rights (OHCHR), UN Women, UNAIDS, UNDP, UN Population Fund (UNFPA), UNICEF and WHO, “Eliminating forced, coercive and otherwise involuntary sterilization”, 2014.

Transgender people, including those who identify as non-binary, should have access to recognition of their gender identity. The process of legal gender recognition should be based on self-identification, be a simple administrative process, allow for recognition of non-binary identities, give minors access to recognition of their gender identity, and not require applicants to present medical certification, or undergo surgery, sterilization or divorce.

- *Living Free and Equal: What states are doing to tackle violence and discrimination against lesbian, gay, bisexual, transgender and intersex people* (OHCHR, 2016), p. 95.

So-called “conversion therapies”

Psychological interventions intended to change same-sex attraction and attempts to alter transgender identity have been found to be unethical, unscientific and ineffective and, in some instances, tantamount to torture.

- Report of the United Nations High Commissioner for Human Rights on discrimination and violence based on sexual orientation and gender identity (A/HRC/29/23), 2015.

States should take the necessary legislative, administrative and other measures to guarantee respect for the autonomy and physical and personal integrity of LGBTI persons and prohibit the practice of “conversion therapy” and other forced, involuntary or otherwise coercive or abusive treatments performed on them.

- Committee against Torture, Concluding observations on China (CAT/C/CHN/CO/5), 2016.
- Human Rights Committee, Concluding observations on the Republic of Korea (CCPR/C/KOR/CO/4), 2015.
- Report of the Special Rapporteur on torture (A/HRC/22/53), 2013.
- Report of the United Nations High Commissioner for Human Rights on discrimination and violence based on sexual orientation and gender identity (A/HRC/29/23), 2015.

Right to freedom of expression, association and peaceful assembly

Laws that seek to prohibit or restrict public discussion of sexual orientation and gender identity, the work of human rights defenders and CSOs working on the human rights of LGBTI people and events related to these issues, often under the guise of “protecting minors”, should be repealed.

- UN treaty bodies and special procedures have systematically rejected such restrictions as not meeting the aforementioned strict safeguards in international human rights law, finding that such restrictions were, inter alia, not based on any credible evidence, not necessary, not proportionate, discriminatory, and amounted to violations of rights enshrined in international law.

Right to education

States must “take effective action to protect all lesbian, gay, bisexual, transgender and intersex adolescents from all forms of violence, discrimination or bullying by raising public awareness and implementing safety and support measures”.

- Special Rapporteur on the right to education (E/CN.4/2006/45), 2006.
- Report of the Special Rapporteur on violence against women (E/CN.4/2003/75/Add.1), 2003.
- Committee on the Rights of the Child, General comment No. 20 (CRC/C/GC/20), 2016.

The right to education includes the right to receive comprehensive, accurate and age-appropriate information regarding sexuality, to ensure young people can lead healthy lives, make informed decisions and protect themselves and others from sexually transmitted infections.

- Committee on the Rights of the Child, General comment No. 4 (CRC/GC/2003/4), 2003.
- Committee on the Elimination of Discrimination against Women, General comment No.36 (CEDAW/C/GC/36), 2017.
- Human Rights Committee, Concluding observations on the Republic of Korea (CCPR/C KOR/CO/4), 2015.

States should not use child protection arguments to block access to information on LGBTI issues, or to provide negatively biased information.

- Report of the Special Rapporteur on the right to freedom of opinion and expression (A/69/335), 2014.

Torture, inhuman and degrading treatment

The Committee against Torture, in a general comment (2008), noted the particular risk of torture faced by people of diverse sexual orientations and gender identities. The Committee advised that, in order to ensure protection to minority groups, States parties should ensure that acts of violence and abuse against members of minority groups should be fully prosecuted and punished.

Sexual violence may constitute torture when it is carried out by, or at the instigation of, or with the consent or acquiescence of, public officials.

- Reports of the Special Rapporteur on torture (A/HRC/7/3), 2008, and (A/HRC/31/57), 2016.

The practice of subjecting cisgender men and transgender women who are arrested on homosexuality-related charges to anal examinations to obtain physical evidence for prosecution has been condemned by the Special Rapporteur on torture, the Committee against Torture, and the Working Group on Arbitrary Detention. WHO has also criticized it as “medically worthless”. The Special Rapporteur on torture has described such invasive forensic examination as being intrusive and degrading, with the potential to amount to torture or ill-treatment.

- Reports of the Special Rapporteur on torture (A/56/156), 2001; on communications (A/HRC/31/57/Add.1), 2016; (A/HRC/10/44/Add.4), 2009; (A/HRC/4/33/Add.1), 2007; (A/HRC/16/52/Add.1), 2011.

The placement of LGBTI people “in solitary confinement or administrative segregation for ‘protection’ can constitute an infringement of the prohibition of torture and ill-treatment”. Authorities have a responsibility to take reasonable measures to prevent and combat violence against LGBTI detainees by other detainees, without subjecting them to solitary confinement or other restrictions.

- Report of the Special Rapporteur on torture (A/HRC/31/57), 2016.

The Committee against Torture has recommended training and awareness-raising programmes for police officers, border guards and prison personnel to prevent abuse of LGBTI people.

- Committee against Torture, Concluding observations on Costa Rica (CAT/C/CRI/CO/2), 2008.

All transgender detainees, regardless of whether they have changed gender on legal documents or undergone surgery, should be treated on the basis of their self-identified gender, including in the context of placement, dress and appearance, access to health services, search and other procedures, and decisions on allocation should be made on a case-by-case basis and in consultation with the detainee.

- General Assembly resolution 70/175 on the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules), 17 December 2015, Rule 7(a)

2.2 The 2030 Agenda for Sustainable Development and the Sustainable Development Goals

In September 2015, 193 Member States of the UN unanimously adopted the 2030 Agenda and its SDGs⁴² as the global framework for efforts to end poverty, fight inequality and injustice and tackle climate change by 2030. The SDGs “seek to realize the human rights of all and to achieve gender equality and the empowerment of all women and girls. They are integrated and indivisible and balance the three dimensions of sustainable development: the economic, social and environmental.” All SDGs link to the common goal of achieving just, peaceful and inclusive societies. Central to this agenda is the pledge that **“no one will be left behind”**. Achieving these goals will only be possible if LGBTI people, like any other population group, are included.

Agenda 2030 explicitly recognizes the role of parliaments in supporting the implementation of the SDGs, “through their enactment of legislation and adoption of budgets and their role in ensuring accountability for the effective implementation of our commitments”.⁴³ Parliaments, and individual MPs, are responsible for protecting the rights of all citizens. Through your representation, legislative and oversight functions, you play a crucial role in shaping legal and policy frameworks, and public opinion.

As representatives of the people, you and your colleagues are national human rights actors.

The principle that **no one will be left behind** is reflected specifically in SDG 16 (Promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels).

This is particularly relevant to LGBTI people who have been left behind by legislation, policies and programmes, both through discriminatory laws and policies and by omission due to a lack of knowledge of or concern for their specific needs.

⁴² A/RES/70/1.

⁴³ A/RES/70/1, para. 45: <https://sustainabledevelopment.un.org/post2015/transformingourworld>.

SELECTED SDGS RELEVANT TO THE HUMAN RIGHTS AND INCLUSION OF LGBTI PEOPLE

SDG 1: End poverty in all its forms everywhere



RATIONALE AND FOCUS

States should work towards the eradication of poverty, and more specifically:

- Implement nationally appropriate social protection systems and measures for all, including floors, and by 2030 achieve substantial coverage of the poor and the vulnerable (target 1.3)
- By 2030, ensure that all men and women, in particular the poor and the vulnerable, have equal rights to economic resources, as well as access to basic services, ownership and control over land, property and resources (target 1.4)

RELEVANCE TO LGBTI HUMAN RIGHTS AND INCLUSION

Discrimination, violence and exclusion make it harder for LGBTI people to find, secure and retain a source of income to fulfil their needs. There appears to be a cyclical dynamic:

- LGBTI children and children in Rainbow families face high levels of school bullying and suffer from non-inclusive and non-supportive school environments, which lead to underperformance and dropping out
- LGBTI people with lower education levels have less ability to secure stable, well-paid employment
- LGBTI people with lower socioeconomic status and education levels are more vulnerable to stigma and discrimination
- LGBTI people may be refused employment or fired when found to be LGBTI
- Workplace bullying and violence have detrimental effects on the mental health and well-being of LGBTI people, and impact on their performance and career development prospects

SDG 3: Ensure healthy lives and promote well-being for all at all ages



RATIONALE AND FOCUS

- Ensuring healthy lives and promoting well-being at all ages is essential to sustainable development, yet health inequalities exist everywhere in the world and affect marginalized and vulnerable groups in particular
- End the epidemic of AIDS and combat communicable diseases through prevention and treatment and promote mental health and well-being (target 3.3)
- Reduce premature mortality from non-communicable diseases (target 3.4)
- Ensure universal access to sexual and reproductive health-care services (target 3.7)
- Achieve universal health coverage and access to essential medicines and vaccines (target 3.8)

RELEVANCE TO LGBTI HUMAN RIGHTS AND INCLUSION

Health inequalities for LGBTI people are numerous. For example:

- high HIV prevalence among men who have sex with men (MSM) and among transgender women (target 3.3)
- high rates of mental health issues such as depression, anxiety and suicidal ideation (target 3.4)
- lack of inclusive sexual and reproductive health-care services (target 3.7)

SDG 4: Ensure inclusive and equitable quality education and promote lifelong learning opportunities for all



RATIONALE AND FOCUS

- Primary and secondary education for all should lead to relevant and effective learning outcomes (target 4.1)
- By 2030, ensure that all learners acquire the knowledge needed to promote sustainable development, including through education for sustainable development and sustainable lifestyles, human rights, gender equality, promotion of a culture of peace and non-violence, global citizenship and appreciation of cultural diversity ... (target 4.7)

RELEVANCE TO LGBTI HUMAN RIGHTS AND INCLUSION

The lack of safe and inclusive school environments, including for trans and gender-non-conforming children, of inclusive school curricula that include comprehensive sexuality education, and the need for action against bullying and other forms of violence, all impact on the right to education of LGBTI children and adults.

SDG 5: Achieve gender equality and empower all women and girls



RATIONALE AND FOCUS

- Gender equality is both a specific SDG goal and a transversal one: gender equality is indispensable to the realization of all other SDGs
- End all forms of discrimination against all women and girls everywhere (target 5.1)

RELEVANCE TO LGBTI HUMAN RIGHTS AND INCLUSION

While SDG 5 places an emphasis on the empowerment of women and girls, it is equally relevant to people of diverse SOGIESC. A more inclusive understanding of gender to include the experiences of lesbian, bi, trans and intersex people will contribute to the transformative promise of the SDGs.

SDG 10: Reduce inequality within and among countries



RATIONALE AND FOCUS

- Legislation is indispensable to the reduction of inequalities
- By 2030, empower and promote the social, economic and political inclusion of all, irrespective of age, sex, disability, race, ethnicity, origin, religion or economic or other status (target 10.2)
- Ensure equal opportunity and reduce inequalities of outcome, including by eliminating discriminatory laws, policies and practices and promoting appropriate legislation, policies and action in this regard (target 10.3)

RELEVANCE TO LGBTI HUMAN RIGHTS AND INCLUSION

Everywhere in the world, LGBTI people face a range of challenges and human rights violations, such as pervasive stigma, discrimination, social and legal exclusion, lack of access to basic services, and violence. They are among the most marginalized in society, even though countries have pledged that “no one will be left behind”.

SDG 11: Make cities and human settlements inclusive, safe, resilient and sustainable



RATIONALE AND FOCUS

- By 2030, ensure access for all to adequate, safe and affordable housing and basic services (target 11.1)
- By 2030, provide access to safe, affordable, accessible and sustainable transport systems for all ... with special attention to the needs of those in vulnerable situations (target 11.2)

RELEVANCE TO LGBTI HUMAN RIGHTS AND INCLUSION

This is particularly relevant for LGBTI youth, who may risk homelessness because they are rejected by their families, or LGBTI tenants who are not protected against discrimination.

SDG 16: Promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels



RATIONALE AND FOCUS

- SDG 16 is not merely a political and legal target, but should be applied as it relates to all dimensions of human life
- The most vulnerable and marginalized groups in societies are engaged as actors and beneficiaries of the Agenda 2030 principle to “leave no one behind”
- Institutions should:
 - be effective, inclusive, responsive, participative, representative, accountable and transparent
 - protect the rule of law and human rights
 - ensure equal access to justice for all

RELEVANCE TO LGBTI HUMAN RIGHTS AND INCLUSION

When LGBTI people are excluded, both legally and socially, they cannot access services and support if public institutions do not represent or include them. Nor can they contribute to society on an equal footing with others.

Target 16.b speaks directly to MPs: “Promote and enforce non-discriminatory laws and policies for sustainable development”. This is particularly relevant to LGBTI people.

2.2.1 Voluntary National Reviews

In the UN system, a Voluntary National Review (VNR) is a process through which a country assesses and presents its own progress in achieving the SDGs and the pledge to “leave no one behind”. The purpose of a VNR is to present a snapshot of the country’s progress on SDG implementation; it aims to help the country accelerate progress through experience sharing, peer learning, identifying gaps and good practices, and mobilizing partnerships.⁴⁴

Not all governments consult their parliaments when preparing for a VNR, although it is good practice to do so⁴⁵. As an MP, you can work with your parliamentary colleagues to use your government’s VNR process as an opportunity to organize consultations with LGBTI people and feed information back to the government as it prepares its VNR report. A VNR presents a unique and under-utilized opportunity for MPs to mainstream LGBTI inclusion in their country’s work towards achieving the SDGs.

Of the 45 countries that presented a VNR report in 2020, 18 mentioned LGBTI inclusion as a criterion by which to analyse progress towards SDG 5 (Achieve gender equality and empower all women and girls), so there remains great potential for more use of the procedure in this way.⁴⁶

2.3 The LGBTI Inclusion Index

In the past 15 years, UNDP has worked in some 100 countries to include LGBTI people and issues in development efforts.

Achieving the SDGs requires good, solid data and evidence-based research to inform the legal, policy and programmatic frameworks needed to achieve results. However, there is a huge gap in the global data available on the inclusion of LGBTI people.

To fill this gap, and to support the implementation of Agenda 2030, in December 2015, UNDP announced its commitment to lead the development of an LGBTI Inclusion Index that can inform evidence-based development strategies to advance the inclusion of LGBTI people. In 2018 UNDP and the World Bank developed and proposed a set of disaggregated indicators for the Index.⁴⁷

The purpose of the LGBTI Inclusion Index is to measure inclusion in all countries and to provide several perspectives on the data with a view to:

- comparing the overall degree of inclusion across countries;
- measuring progress towards inclusion over time within countries and regions and globally;
- setting benchmarks for countries to achieve new levels of inclusion;
- demonstrating where resources are most needed to enable and support sustainable human development for LGBTI people, as shown through outcome measures in the Index.⁴⁸

⁴⁴ OHCHR, [Voluntary National Reviews](#).

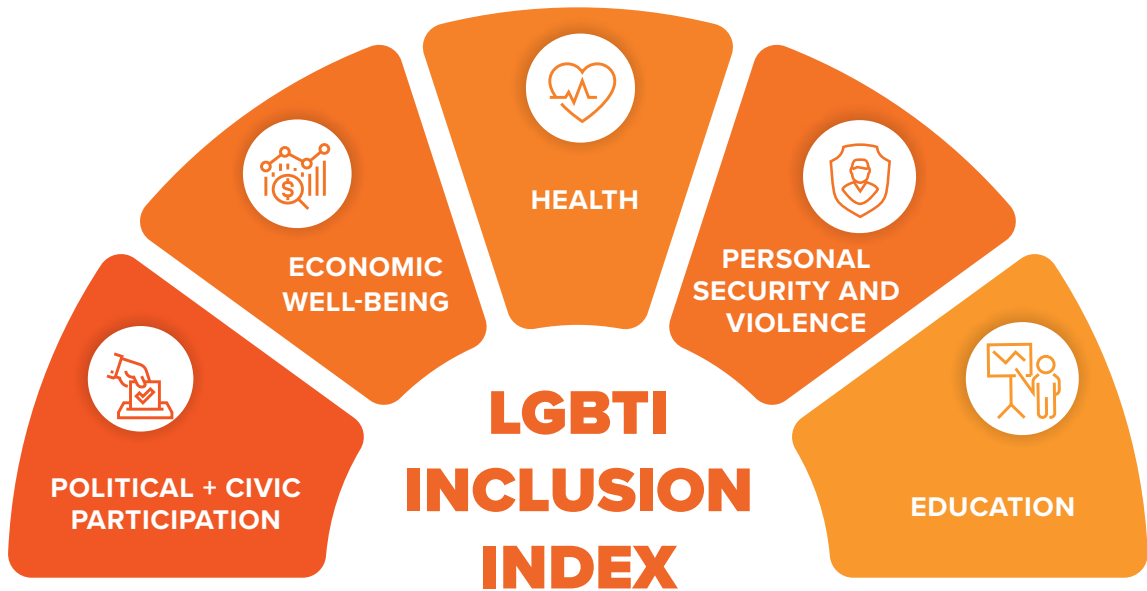
⁴⁵ High Level Political Forum on Sustainable Development, Handbook for the Preparation of Voluntary National Reviews: The 2020 Edition (UN Department of Economic and Social Affairs (DESA), 2019).

⁴⁶ DESA, Committee for Development Policy (CDP) Subgroup on voluntary national reviews, [What did the 2020 Voluntary National Review \(VNR\) reports still not tell us?](#), CDP Background Paper No. 52, 17 July 2021.

⁴⁷ M.V.L. Badgett and R.A. Sell, A Set of Proposed Indicators for the LGBTI Inclusion Index (New York, UNDP and World Bank 2018).

⁴⁸ Ibid.

Following extensive multisectoral and civil society consultations, the five priority dimensions for measurement in the LGBTI Inclusion Index have been determined to be: political and civic participation, economic well-being, personal security and violence, health and education:



There are 51 indicators in the LGBTI Index. For some, data is readily available (e.g. decriminalization of same-sex conduct (2.1); presence of employment non-discrimination legislation (3.1)). For others, specific data collection is necessary (e.g. percentage of LGBTI students who have experienced physical, psychological or sexual violence or bullying during the past 12 months (1.1); percentage of individuals in a country who believe that (a) homosexuality, (b) bisexuality, (c) transgender, (d) variation in sex characteristics is socially acceptable (2.9)).

It is hoped that an important effect of creating the Index will be to increase the demand for high quality data on LGBTI people. An important action you can take is to advocate for better data collection on the situation of LGBTI people⁴⁹ in your country and region. When doing so, please bear in mind that certain conditions for data collection must be met. Ethical conditions are especially important when data collection concerns marginalized people. These include confidentiality, safeguarding, informed consent and ensuring respect for the “do no harm” principle. Data collection should not endanger the safety of people whose data is collected.

A growing body of high-quality data, and the Index itself, will provide an essential evidence base to support your arguments for advancing the human rights and inclusion of LGBTI people.

2.4 Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity

In 2016, the UN Human Rights Council created the mandate of Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity (also referred to as the Independent Expert on sexual orientation and gender identity, or “IE SOGI”).⁵⁰ The Human Rights Council renewed the Independent Expert’s mandate in 2019.

⁴⁹ Ibid.

⁵⁰ Resolution 32/2, June 2016.

The Independent Expert intervenes in various ways: by issuing urgent appeals and letters of allegation to States concerning cases of violence and discrimination against LGBTI people, undertaking fact-finding country visits, and presenting thematic reports to the Human Rights Council and the UN General Assembly.

2.5 Work by other UN entities

UN Women is one of many UN entities active in pushing the global community to protect equality for all, through setting standards and calling for laws that protect both women and gender-diverse people.

“The UN has a unique voice to support the human rights and fundamental freedoms of all people, especially those who may have their backs against the wall. We speak up against human rights violations everywhere, so it’s natural to us to support the LGBTI agenda ... and to also see a common agenda in all the work that we do ...

We have a responsibility to set standards ... Women and people with nonbinary gender identities must have their own spaces in which to speak, to exercise power, to act, and to own and to drive their own movement.”

— Immediate former UN Women Executive Director Phumzile Mlambo-Ngcuka, at the UN high-level meeting on gender diversity and non-binary identities, New York, 15–18 July 2019.

The UN publishes a programmatic overview of its role in combating discrimination and violence against LGBTI people. Some actions taken by other UN entities include:

- The Office of the High Commissioner for Human Rights’ (OHCHR) work on the role of the private sector in LGBTI human rights and inclusion;⁵¹
- Co-production of a training manual by the UN High Commissioner for Refugees (UNHCR) and the International Organization for Migration (IOM) on the inclusion of LGBTI people in migration assistance;⁵²
- Publication of a current issues paper by the United Nations Children’s Fund (UNICEF), outlining its commitment to eliminate discrimination against children and parents based on sexual orientation and/or gender identity;⁵³
- Publication of an information paper on protection against SOGIESC discrimination by the International Labour Organization (ILO).⁵⁴

⁵¹ OHCHR, [Standards of Conduct for Business on Tackling Discrimination against LGBTI people](#), 2017.

⁵² UNHCR and IOM, [2021 SOGIESC and Migration Training Package](#).

⁵³ UNICEF, [Eliminating discrimination against children and parents based on sexual orientation and/or gender identity](#), 2014.

⁵⁴ ILO, [Information paper on protection against sexual orientation, gender identity and expression and sexual characteristics \(SOGIESC\) discrimination](#), 2019.

There are many other UN resources that can assist you to strengthen your knowledge about the issues faced by LGBTI people around the world, and to help you to plan, consult, and take action to protect the rights of LGBTI people in your country.⁵⁵

2.6 The Yogyakarta Principles

The Yogyakarta Declaration and Principles are particularly relevant to advancing the human rights and inclusion of LGBTI people, and a key resource for advocacy.

They were adopted by Member States of the UN in Yogyakarta, Indonesia in 2006 and updated in 2017.⁵⁶

The Yogyakarta Principles apply international human rights law standards to issues that affect LGBTI people, in response to identified patterns of abuse towards them. They identify specific rights and the related duties and obligations of all States to ensure that LGBTI people are able to exercise and enjoy those rights.

In 2017, the Yogyakarta Principles were updated (“Yogyakarta Principles plus 10”) to reflect significant developments both in international human rights law and in understanding of the specific types of violations affecting people of “diverse sexual orientations and gender identities”. Importantly, the updated set of principles recognizes the often-distinct violations affecting people on grounds of “gender expression” and “sex characteristics”.⁵⁷ It includes eight additional principles, a state of additional obligations, and additional recommendations.

Although the Yogyakarta Declaration and Principles are not binding, they are a very useful resource and tool for MPs (and others) working for LGBTI human rights and inclusion.



The Yogyakarta Principles represent the culmination of a collaborative process with input from activists, national and international human rights defenders and advocates [and] United Nations Special Rapporteurs, as well as academics, writers, theorists and movement builders with expertise in a number of fields. The primary target audience for the Yogyakarta Principles are States, however there are also a number of important recommendations ... for different stakeholders in charge of promoting and protecting human rights. The Principles address how LGBTI people have experienced or are likely to experience unequal treatment in society when accessing State services or when participating in society in general.”

– Boris Dittrich, Member of the Netherlands Senate and member of PGA

⁵⁵ See for example, OHCHR, [The struggle of trans and gender-diverse persons](#).

⁵⁶ [The Yogyakarta Principles](#).

⁵⁷ [Experts Release Much Anticipated Expansion of the Yogyakarta Principles](#), 27 November 2017.

Original Yogyakarta Principles (2006)⁵⁸

The Preamble acknowledges human rights violations based on sexual orientation and gender identity, establishes the relevant legal framework, and provides definitions of key terms.

Rights to universal enjoyment of human rights, non-discrimination and recognition before the law: Principles 1 to 3 establish the universality of human rights and their application to all without discrimination. All people have a right to recognition as a person before the law, regardless of their sexual orientation or gender identity. Forced medical procedures, like sterilization or sex reassignment surgery, cannot be required as a precondition for legal recognition.

Rights to human and personal security: Principles 4 to 11 address fundamental rights to life, freedom from violence and torture, privacy, access to justice and freedom from arbitrary detention and human trafficking.

Economic, social and cultural rights: Principles 12 to 18 elaborate on non-discrimination in the enjoyment of economic, social and cultural rights. This covers the rights to employment, housing, social security, and education, as well as sexual and reproductive health rights that include the right to informed consent and sex reassignment therapy.

Rights to expression, opinion and association: Principles 19 to 21 set out the freedom to express oneself, one's identity and one's sexuality based on sexual orientation or gender identity, without State interference. Along with this right to free expression, everyone also has the right to freely participate in peaceful association and assembly.

Freedom of movement and asylum: Principles 22 and 23 highlight the rights of persons to seek asylum from persecution based on sexual orientation or gender identity.

Rights of participation in cultural and family life: Principles 24 to 26 address the rights of people to have a family life and to participate in public affairs and the cultural life of their communities without discrimination based on sexual orientation or gender identity.

Rights of human rights defenders: Principle 27 establishes the right to defend and promote human rights without discrimination based on sexual orientation and gender identity, as well as the obligation of States to ensure the protection of human rights defenders working in these areas.

Rights of redress and accountability: Principles 28 and 29 elaborate on holding rights violators accountable and ensuring appropriate redress for those who face rights violations.

Additional recommendations: The Principles set out 16 additional recommendations to national human rights institutions, professional bodies, funders, non-governmental organizations (NGOs), OHCHR, UN entities, treaty bodies, special procedures mandate holders, and others.

Speaking at the Interparliamentary Plenary Assembly held in Copenhagen in August 2021, the UN Commissioner for Human Rights, Michelle Bachelet, paid tribute to LGBTI human rights defenders who, "often at great personal risk, work tirelessly so that many LGBTI people around the world [can enjoy their human rights]." She called for their increased support, particularly those who receive the least funding.



⁵⁸ See [The Yogyakarta Principles: An Overview](#).

Additional principles: “Yogyakarta Principles plus 10” (2017)

Right to State Protection, Legal Recognition and Bodily and Mental Integrity: Principles 30, 31 and 32 establish the responsibility of the State to prevent, investigate, and punish discrimination, violence, and other harm, and to guarantee the right to self-determination.

Right to Freedom from Criminalization and Sanction on the Basis of Sexual Orientation, Gender Identity, Gender Expression or Sex Characteristics: Principle 33 requires States to ensure that any legal provisions – explicit or general – do not criminalize or sanction on the basis of SOGIESC.

Right to Protection from Poverty and to Sanitation: Principles 34 and 35 remind States that poverty and lack of access to equitable, adequate, safe and secure sanitation and hygiene are incompatible with respect for human rights.

Right to the Enjoyment of Human Rights in Relation to Information and Communication Technologies: Principle 36 establishes the right to use information and communication technologies without fear or risking violence, discrimination, and persecution based on a person’s SOGIESC.

Right to Truth: Principle 37 guarantees the right to know the truth about the facts, circumstances, and reasons why a violation occurred.

Right to Practise, Protect, Preserve and Revive Cultural Diversity: Principle 38 guarantees the right to practise, protect, preserve and revive the diversity of cultural expressions of persons of all forms of SOGIESC.

3. Regional human rights frameworks

International organizations have produced conventions, legal documents and jurisprudence that are either specific to LGBTI human rights or draw on existing human rights obligations to demand protection from member States. Some of these are listed below, but there are also other regional frameworks that can be used to advance LGBTI rights, even if they do not explicitly address SOGIESC.⁵⁹

3.1 Africa

In May 2014, the African Commission on Human and Peoples’ Rights adopted Resolution 275 on Protection against Violence and other Human Rights Violations against Persons on the basis of their real or imputed Sexual Orientation or Gender Identity.

The Resolution condemns the increasing incidence of violence and other human rights violations, including murder, rape, assault, arbitrary imprisonment and other forms of persecution of persons, on the basis of their real or perceived sexual orientation or gender identity.

It calls on State parties to ensure that human rights defenders work in an enabling environment that is free of stigma, reprisals or criminal prosecution as a result of their human rights protection activities, including the rights of sexual minorities.

⁵⁹ See, for example: Chimaraoke Izugbara and others, “[Regional legal and policy instruments for addressing LGBT exclusion in Africa](#)”, *Sexual and Reproductive Health Matters*, vol. 28, no. 1, 2020.

The Resolution strongly urges States to end all acts of violence and abuse, whether committed by state or non-state actors, including by enacting and effectively applying appropriate laws prohibiting and punishing all forms of violence including those targeting persons on the basis of their perceived or real sexual orientation or gender identity, ensuring proper investigation and diligent prosecution of perpetrators, and establishing judicial procedures responsive to the needs of victims.

Following Resolution 275, the African Commission on Human and Peoples' Rights has taken on issues of sexual orientation and gender identity, topics that some may have considered too "controversial" but that fall squarely within the ambit of human rights.⁶⁰ Human rights organizations that work to protect the rights of LGBTI people in some of the most difficult country contexts in the region have spent many years and resources advocating at the Commission. These efforts finally paid off with the Commission mainstreaming sexual orientation and gender identity in its work – an important if largely unheralded step.

It is especially significant that the Commission has been addressing this issue, including in its concluding observations and recommendations to African Charter member countries. It has explicitly included sexual orientation and gender identity in its soft law instruments – that is, its general comments, resolutions and guidelines, building on Resolution 275. The Commission's 2017 general comment on torture is a case in point; it notes that anyone, regardless of their gender, may be a victim of sexual and gender-based violence (SGBV) that amounts to torture or ill-treatment. And in this regard, "lesbian, gay, bisexual, transgender and intersex persons are of equal concern". Even if these documents do not have the force of law, they are influential throughout most of Africa in raising important issues and helping countries set their own agendas for human rights protections for LGBTI people.

As an MP, you can support NGOs and human rights defenders involved with the Commission's work by speaking out, pointing to this body of soft law, and encouraging local and regional leaders to apply African human rights standards to sexual orientation and gender identity issues.

“In Africa, one of the most fundamental ideals we have fought for is that of non-discrimination on the grounds of skin colour, gender, religious orientation and other beliefs. We uphold this ideal passionately. Yet ironically, discrimination against LGBT people is still upheld and justified by our same nations and laws.”

– Festus Mogae, former President of Botswana

⁶⁰ Wendy Isaack, "[African Commission tackles sexual orientation, gender identity](#)", Pambazuka News, 1 June 2017.

3.2 Europe

3.2.1 The Council of Europe

The Council of Europe has taken positive steps to identify and respond to discrimination, violence and other issues affecting the LGBTI community: the Parliamentary Assembly (PACE), Committee of Ministers, Commissioner for Human Rights, European Court of Human Rights, Venice Commission, and European Commission against Racism and Intolerance (ECRI) have all spoken out about violations of LGBTI human rights and made recommendations to member States to address them.⁴⁵ The Council itself has a Sexual Orientation and Gender Identity Unit responsible for working with relevant stakeholders on issues of sexual orientation and gender identity.⁴⁶

In March 2010, the Council of Europe adopted the first international standard to advance human rights and equality for LGBTI people.⁴⁷ Recommendation CM/Rec (2010)5 on measures to combat discrimination based on sexual orientation or gender identity emphasizes the universality of human rights and the importance of non-discrimination. The recommendation called upon member States to take positive steps to protect the rights of the LGBTI community.

The Parliamentary Assembly of the Council of Europe (PACE) adopted three resolutions on LGBTI rights: on private and family life (2018); promoting the human rights of and eliminating discrimination against intersex people (2017); and discrimination against transgender people in Europe (2015).

3.2.2 The European Union

The EU treaties include the principle of equality and the prohibition of discrimination on the basis of sexual orientation (e.g. Treaty on European Union, arts. 2 and 3; Treaty on the Functioning of the European Union, art. 10). The Charter of Fundamental Rights of the European Union, which now has the same legal force as the treaties, explicitly prohibits discrimination on the grounds of religion or belief, disability, age or sexual orientation (art. 21(1)).

EU citizens are protected against discrimination under EU law under the Framework Employment Directive. However, the Directive only prohibits discrimination based on sexual orientation (art. 1) in employment and occupation. In other fields, national law applies, which greatly varies from one country to another.⁴⁸ In 2008, the European Commission proposed a new “horizontal” anti-discrimination directive that would extend the prohibition of discrimination on the grounds of religion or belief, disability, age or sexual orientation beyond the field of employment. Its adoption has been stalled by lack of consensus among member States.

In 2020, the European Commission adopted its first LGBTI strategy for 2020–2025, after years of lobbying by CSOs, multiple requests by the European Parliament⁴⁹ and in a context of erosion of LGBTI human rights in several EU countries.

⁴⁵ See Council of Europe, [LGBTI human rights and the Council of Europe](#).

⁴⁶ Council of Europe Commissioner for Human Rights, [Issue Paper on Human Rights and Gender Identity \(2009\)](#).

⁴⁷ Council of Europe, [Recommendation CM/Rec\(2010\)5 of the Committee of Ministers to member states on measures to combat discrimination on grounds of sexual orientation or gender identity](#), 31 March 2010.

⁴⁸ To compare anti-discrimination legislation across Europe, see ILGA Europe, [Rainbow Europe 2021](#).

⁴⁹ European Parliament, [Resolution of 14 February 2019 on the future of the LGBTI List of Actions \(2019-2024\)](#).

Other relevant actors on the rights of LGBTI people in the EU are:

- the European Union Fundamental Rights Agency (FRA), which monitors the situation of LGBTI people in the EU, and has collected data on LGBTI people through its EU-wide survey;⁵⁰
- the European Parliament, elected directly by EU citizens, which regularly adopts reports, recommendations and resolutions on the situation of LGBTI people in the EU and worldwide.⁵¹

3.3 The Americas

The Organization of American States (OAS) and the Inter-American Commission on Human Rights (IACHR)⁵² have taken steps to address patterns of violence and other human rights abuses affecting LGBTI persons within the Americas.

Between 2008 and 2021, the OAS General Assembly approved nine resolutions concerning human rights, sexual orientation, gender identity and sex characteristics.⁵³ These resolutions acknowledge and condemn discrimination and acts of violence against members of the LGBTI community. They also call upon States, the IACHR and other bodies to take appropriate measures to address the problem.

In November 2011, the IACHR created a Unit on the Rights of LGBTI Persons.⁵⁴ Its rapporteurs are tasked with advising the IACHR on petitions and cases concerning sexual orientation, gender identity and gender expression, providing technical support to member States, preparing reports on the rights of LGBTI persons and monitoring human rights violations against LGBTI persons in the Americas.



– Protest against military transgender ban in 2017, White House, Washington, DC USA. Credit: Ted Eytan

⁵⁰ FRA, [A long way to go for LGBTI equality, 2019](#).

⁵¹ See for example, LGBTI Intergroup in the European Parliament, [“What has the European Parliament done for LGBTI rights in 2014-2019?”](#), LGBTI Intergroup briefings.

⁵² The IACHR is an autonomous organ of the OAS.

⁵³ See OAS, [Rapporteurship on the Rights of LGBTI Persons](#).

⁵⁴ IACHR, [IACHR Creates Unit on the Rights of Lesbian, Gay, Bisexual, Trans, and Intersex Persons](#), Press release 115/11, 3 November 2011.

The OAS adopted the Inter-American Convention against All Forms of Discrimination and Intolerance on 5 June 2013. The Convention calls on States to prevent, eliminate, prohibit and punish all acts and manifestations of discrimination and intolerance. Sexual orientation and gender identity and expression are explicitly included as protected grounds within the Convention. The Convention entered into force after two (of 12) signatory States ratified it.

In 2017, two questions were brought to the attention of the Inter-American Court of Human Rights regarding recognition of the right to gender identity: (i) the procedure to process requests for a name change based on gender identity, and (ii) the patrimonial rights of same-sex couples. The Court stated:⁶¹

- on the right to gender identity: “States must respect and ensure to everyone the possibility of registering and/or changing, rectifying or amending their name and the other essential components of their identity such as the image, or the reference to sex or gender, without interference by the public authorities or by third parties;”
- on the patrimonial rights of same-sex couples: “all the patrimonial rights derived from a protected family relationship between a same-sex couple must be protected, with no discrimination as regards to heterosexual couples, pursuant to the right to equality and non-discrimination (arts.1(1) and 24)”.



– LGBT Flag at the National Congress of Brazil. Credit: Antonio Cruz / Agência Brasil

⁶¹ IACHR, [Advisory Opinion 24/2017 on gender identity, and equality and non-discrimination of same-sex couples](#), 2017.

In a report published in 2018,⁶² the IACHR identified the main challenges in the recognition of the human rights of LGBTI people, analysed them in light of the Inter-American human rights instruments, and provided recommendations to OAS member States to ensure comprehensive protection of LGBTI persons.

In 2020, in response to the Covid-19 pandemic, the IACHR issued specific recommendations to member States of the OAS urging them to guarantee the rights of LGBTI persons, as well as other populations, in historic conditions of vulnerability:⁶³

- Ensure that LGBTI persons, and especially transgender people, who find themselves in a cycle of poverty, exclusion and lack of access to housing, are included in the formulation of social assistance policies during the pandemic;
- Adopt or strengthen health care protocols and complaint procedures for LGBTI persons, including children and adolescents, that take account of prejudice, discrimination and violence in their homes in the context of social distancing or quarantine;
- Adopt or strengthen policies to ensure that gender identity is respected in hospitals, and ensure that medical services continue to be provided to transgender people;
- Conduct campaigns to prevent and combat homophobia, transphobia and discrimination based on sexual orientation geared particularly to government health care and security personnel who are responsible for health care and containment of the pandemic.

“[...] historically vulnerable persons and populations, like LGBTI persons, have been particularly impacted by the [Covid-19] pandemic. It is my opinion that these impacts are not a mere coincidence, but a consequence of years-long structural social practices that have resulted in the vulnerability, invisibility, and effective social exclusion of LGBTI persons.”

– Flávia Piovesan, Rapporteur for the Rights of LGBTI Persons, Inter-American Commission on Human Rights

⁶² IACHR, [Advances and Challenges towards the Recognition of the Rights of LGBTI Persons in the Americas](#), 2018.

⁶³ IACHR, [The IACHR calls on States to guarantee the rights of LGBTI people in the response to the COVID-19 pandemic](#), Press release, 20 April 2020.

4. Checklists: Laws, bills and policies on LGBTI human rights in your country

Use these checklists to take stock of where your country stands in terms of recognizing the rights of LGBTI people, and whether it has the appropriate legal instruments and policies to fully protect those rights addressing sexual orientation, gender identity and sex characteristics.

Does your country comply with international and regional legal instruments?				
International legal instrument	Signed ✓	Ratified ✓	Reservations (specify article if applicable) ✓	Implemented ✓
Universal Declaration of Human Rights (1948)				
International Covenant on Civil and Political Rights (1966)				
International Covenant on Economic, Social and Cultural Rights (1976)				
Convention on the Rights of the Child (1989)				
Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1987)				

International legal instrument	Signed ✓	Ratified ✓	Reservations (specify article if applicable) ✓	Implemented ✓
Convention Relating to the Status of Refugees (1951)				
Convention on the Elimination of All Forms of Discrimination against Women (1979)				
Convention on the Rights of Persons with Disabilities (2006)				
Regional legal instrument				
American Convention on Human Rights “Pact of San Jose, Costa Rica” (1989)				
Inter-American Convention Against All Forms of Discrimination and Intolerance (2013)				
African Charter on Human and Peoples’ Rights (1981)				
Protocol to the African Charter on Human and People’s Rights on the Rights of Women in Africa “Maputo Protocol” (2003)				

Does your country have the necessary legal and policy frameworks to advance the rights and inclusion of LGBTI people?	YES ✓	NO ✓
Does your country have a law that prohibits discrimination on the basis of sexual orientation?		
Does your country have a law that prohibits discrimination on the basis of gender identity/expression?		
Does your country have a law that prohibits discrimination on the basis of sex characteristics?		
Does your country have a law that protects intersex infants and children against unconsented, non-emergency and irreversible surgeries and other medical interventions?		
Does your country criminalize same-sex relations between consenting adults? (men, women, both?)		
Are LGBTI people targeted under laws such as on vagrancy, public nuisance or public morals?		
Does your country have public policies to prevent discrimination and stigmatization of LGBTI people?		
Are there institutional policies and/or procedures that are implemented when LGBTI people submit complaints of harassment or discrimination?		
<p>Does your country provide equal access to health care, in law? In practice, do LGBTI people have equal access to health care?</p> <p>Does your country provide access and financial coverage for</p> <ul style="list-style-type: none"> - Trans-affirmative health care? - IVF? - Artificial insemination? 		
<p>Does your country provide equal access to justice, in law? In practice, do LGBTI people have equal access to justice?</p>		
<p>Does your country provide equal access to housing, in law? In practice, do LGBTI people have equal access to housing?</p>		
<p>Does your country provide equal access to education, in law? In practice, do LGBTI people have equal access to education?</p>		
<p>Does your country provide equal access to work, in law? In practice, do LGBTI people have equal access to work?</p>		
Is there an annual national report to monitor the situation of LGBTI people in your country?		
Does your country give transgender, gender diverse and intersex people the right to legal recognition on identity documents (sex, gender, name)?		

Does your country criminalize same-sex relations between consenting adults?		
Is the legal age for consensual sex the same for heterosexual people as for lesbian, gay and bisexual people?		
Does your country recognize same-gender marriage?		
Does your country recognize relationships between two people of the same gender other than through marriage (e.g. civil partnerships)?		
Does your country provide for same-gender parenting, in law?		
Does your country have legal provisions to identify and prosecute bias-motivated violence (such as hate crime and hate speech) on the basis of real or perceived SOGIESC?		
Is there training for law enforcement officers on non-discrimination and LGBTI issues?		
Are there statistics available on cases of violence and discrimination against LGBTI people and prosecutions?		
Does your country allow registration of LGBTI organizations?		
Does your country allow demonstrations to support LGBTI human rights?		
Does your country place any limitation on the dissemination of information about LGBTI issues?		
Does your country recognize persecution based on SOGIESC as one of the grounds for asylum?		

PART III

EFFECTIVE ACTION

This Part identifies key entry points, based on global rights frameworks, for action to protect LGBTI human rights, and the most important lessons learned from progressive actions taken by MPs and parliaments around the world, including many examples of successful strategies towards reform.



**THE OVER-ARCHING ISSUE IS TO BRING
ABOUT RESPECT FOR LGBTI HUMAN RIGHTS
AND INCLUSION – THESE
ARE ALL MERELY ALTERNATIVE
PATHWAYS TO THAT END.**

5. Entry points for advancing LGBTI human rights: Mainstreaming inclusion

You can use various strategies to create openings or advance the human rights and inclusion of LGBTI people, even in a hostile environment. Six entry points are discussed below; they are elements of incremental but critical change and may present ways of overcoming political and cultural sensitivities, as has been demonstrated in numerous countries (see section 6, especially examples where health and HIV prevention have been used as entry points).

5.1 Gender mainstreaming and inclusive representation

Gender mainstreaming was at the heart of the 1995 Beijing Platform for Action adopted at the Fourth World Conference on Women. It is an indispensable strategy in working towards gender equality.

The UN Economic and Social Council defined “gender mainstreaming” in 1997 as:

the process of assessing the implications for women and men of any planned action, including legislation, policies or programmes, in all areas and at all levels. It is a strategy for making women’s as well as men’s concerns and experiences an integral dimension of the design, implementation, monitoring and evaluation of policies and programmes in all political, economic and societal spheres so that women and men benefit equally and inequality is not perpetuated. The ultimate goal is to achieve gender equality.⁶⁴

This operational definition of gender mainstreaming for the UN has tended to focus on one category of individuals: women, and within a binary construct (“women and men”). It has not generally included people who identify beyond the gender/sex binary or belong to other groups that are discriminated against on the basis of race, ethnicity, disability, sexual orientation, class, faith, etc. There are encouraging signs of change to this position. One example is Women, Peace and Security (WPS), a political and policy agenda underpinned by a series of UN Security Council Resolutions, which marks a shift in global understanding of gender and security, supported by the Secretary-General’s call for data on peacekeeping and security to be disaggregated by sexual orientation and gender identity⁶⁵ (see section 5.6). Gender mainstreaming remains a powerful tool by which to mainstream the needs of LGBTI people in legislation and policies.

In parliaments, gender mainstreaming applies equally to (i) the outputs of parliamentary work (legislation, oversight) and (ii) changing the parliamentary culture and ways of working. Gender mainstreaming helps a parliament become an SDG 16 institution – inclusive in representing all people, effective in advancing the SDGs and accountable to all.

MPs should ensure that all gender mainstreaming principles and processes, whether existing or proposed, are inclusive of women regardless of their SOGIESC.

⁶⁴ A/52/3, Chapter IV, [Generic Mandates \(ECOSOC 1997/2\)](#).

⁶⁵ S/2019/800.

5.1.1 Working within parliaments

Support the representation of women and persons of different SOGIESC in parliament:

- Ensure the inclusive and non-binary application of women quotas.
- Ensure someone's SOGIESC does not impact their eligibility.
- Support inclusion of LGBTI women in women's caucuses and other caucuses as appropriate.
- Support male and non-LGBTI champions of equal women's political participation and representation, of the rights and interests of women and girls, and of the inclusion and human rights of LGBTI people.
- Ensure that career progression opportunities in the parliamentary secretariat are in reality equally open to women and men and to LGBTI people.

Ensure SOGIESC are mainstreamed in:

- Strategic plans and institutional gender equality policies;
- Dedicated gender mainstreaming bodies (assess parliamentary outputs from a gender perspective, scrutinize the gender-related aspects of all government reporting, and help to monitor the progress of gender mainstreaming across parliament);
- Gender equality committees as they support and monitor how other portfolio committees mainstream gender within their mandate;
- Parliamentary research, publications, analysis and briefings on gender issues;
- Policies on protection against gender-based violence and sexist hate speech in parliament and during parliamentary activities in and outside parliament.

Across your parliamentary work:

- Advocate for the collection of disaggregated data that focuses on not only gender but also other categories, including race, ethnicity, disability, sexual orientation, class, faith, etc. as a condition for legislation and policies that meet the needs of the population.
- Make sure trans women, intersex women, lesbian and bisexual women are included in gender mainstreaming processes on legislation and policy.
- Rely on existing disaggregated data to include LGBTI people in gender mainstreaming processes in policymaking and evaluation.
- Foster spaces of collaboration between LGBTI civil society representatives and representatives of other human rights movements to elaborate inclusive gender mainstreaming processes.

See also section 7, "Stepping up in your own country" for broader actions you can take in your multiple roles as an MP.



Seminar for Parliamentarians and National Human Rights Institutions on Equality and Non-Discrimination based on SOGI in Latin America and the Caribbean, Congressional Palace, Buenos Aires, Argentina, 2018. Credit: PGA

5.2 Protection against discrimination

The principle of non-discrimination and equal treatment before the law is enshrined in the Universal Declaration of Human Rights, the International Bill of Human Rights (see section 2) and most national legal systems and constitutions. The adoption or the revision of anti-discrimination law presents a unique opportunity to mainstream the rights of LGBTI people and strengthen protection of their human rights, by bringing SOGIESC as a protected ground alongside others such as race, ethnicity, disability, etc., as demonstrated in South Africa and the Netherlands (section 6).

It is possible to adopt anti-discrimination law even while criminalization of same-sex activity persists. A recent example is the Barbados Employment (Prevention of Discrimination) Act 2020,⁶⁶ which prohibits discrimination based on sexual orientation, even though the country still criminalizes same-sex activity through its Sexual Offences Act (ch. 154, s. 9).

⁶⁶ [Employment \(Prevention of Discrimination\) Act, Barbados, 2020.](#)

5.3 Protection against violence

5.3.1 Sexual and gender-based violence

In 2011, OHCHR submitted a report to the Human Rights Council that recognized that homophobic and transphobic violence is a form of gender-based violence, “driven by a desire to punish those seen as defying gender norms”, and can be physical (including murder, beating, kidnapping, rape and sexual assault) or psychological (including threats, coercion and arbitrary deprivation of liberty). It also highlighted that it tends to be “especially vicious compared to other bias-motivated crimes”.⁶⁷

Uruguay is one example of how the protection of intersex rights can be mainstreamed within a law on gender-based violence. Indeed, the inclusion of lesbian, bisexual, trans and intersex women in sexual violence prevention and response should be evident; however, most legislation and policies are framed around cisgender, endosex and heterosexual women. Other members of the LGBTI community such as MSM, intersex men, trans men and non-binary people are exposed to sexual violence and should be included in prevention and response efforts as well.

LGBTI people also face violence because they are seen as not conforming to gender norms. As such, they can be included in sexual and gender-based violence (SGBV) prevention and response efforts as well as in legislation. It is important to recognize that SGBV in this case may take many forms, from personal violence (including that perpetrated by family and community), to hate crimes and even state-sponsored violence (both structural and perpetrated by state actors).

Violence and discrimination from state actors

Reforms aiming at strengthening the rule of law and the justice sector are at the core of sustainable development and long-term peace and stability, and to upholding human rights.

Reform of the justice, security or law enforcement sectors aimed at strengthening the rule of law can also be a starting point for protecting the rights of LGBTI people. LGBTI people are exposed to interpersonal violence as well as violence by security and law enforcement actors. Such violence ranges from blackmail to extortion, physical and sexual violence and torture. This may happen, for example, in countries where consensual same-sex relations are criminalized directly or de facto through the use of laws on vagrancy, hooliganism, public order offences, indecency or morality. In conflict and crisis contexts, violence against LGBTI people is common at the hands of both conflict actors and civilians and is perpetuated by the culture of impunity around it.

⁶⁷ A/HRC/19/41.

Resolution 275 of the African Commission of Human and Peoples' Rights (2014) is a landmark text on the topic. Among other recommendations, it strongly urges States to end all acts of violence and abuse, whether committed by state or non-state actors. This includes by enacting and effectively applying appropriate laws prohibiting and punishing all forms of violence, including those targeting persons on the basis of their imputed or real sexual orientation or gender identity, ensuring proper investigation and diligent prosecution of perpetrators, and establishing judicial procedures responsive to the needs of victims.

5.4 Family and protection of children

LGBTI children, their families and children in diverse families suffer from a number of issues and violations of their human rights.⁶⁸ For example:

- Prevalence of school bullying results in underperformance, dropping out, mental health difficulties and high suicide rates;
- Violence in the family puts LGBTI youth at risk of homelessness;
- Banning information, and misrepresentation of LGBTI people through stigmatizing and pathologizing imagery, place LGBTI children at risk of abuse and violence and prevent them from developing a positive view about themselves;
- So-called “conversion therapies”, aimed at changing LGBTI children or those suspected to be LGBTI have devastating effects on their physical and mental well-being, throughout their childhood and adulthood;
- Lack of safe, inclusive and appropriate health care for LGBTI children and children in diverse families is a barrier to attaining the highest attainable standard of health (Convention on the Rights of the Child, art. 24).

The Convention on the Rights of the Child (CRC) protects the human rights of all children and sets up principles for their safeguarding. The international community now recognizes the universality of the CRC, as stated by UNICEF in 2014:

All children, irrespective of their actual or perceived sexual orientation or gender identity, have the right to a safe and healthy childhood that is free from discrimination. The same principle applies to all children irrespective of their parents' sexual orientation or gender identity.⁶⁹

The protection of the “natural family” is rhetoric increasingly used by conservative religious forces to advocate against LGBTI human rights and for discriminatory laws. **As an MP, you can play a key role in “reclaiming” family values by reminding your parliamentary colleagues and the public of the value of family diversity and the duty of parliament to protect diverse family structures, including same-sex families** (see section 8.5, “How to respond to myths about LGBTI people”).

5.5 HIV

HIV prevention has often been the best-known entry point for advancing LGBTI human rights. It has also been very effective in environments hostile to LGBTI rights and inclusion, where direct activism may be particularly difficult and dangerous. Most policy and programmatic responses to LGBTI health inequalities have been catalysed by HIV,⁷⁰ with MSM and trans women often part of the broader grouping of “key populations”, i.e. groups of people who are at higher risk of HIV infection, and whose engagement is critical to a successful HIV response.

⁶⁸ UNICEF, [Eliminating discrimination against children and parents based on sexual orientation and/or gender identity](#), *Current Issues*, No. 9, November 2014.

⁶⁹ *Ibid.*

⁷⁰ Jeffrey O'Malley and Andreas Holzinger, *Sexual and gender minorities and the Sustainable Development Goals* (UNDP, 2018).

Criminalization of consensual same-sex relations, or general widespread homophobia, biphobia and transphobia, are obstacles to testing and HIV care among MSM and trans women as they may fear arrest, prosecution, imprisonment, stigma and discrimination. Advocating for the decriminalization of consensual same-sex relations can therefore be part of your personal commitment to your country's HIV response.

5.6 Gender-inclusive peace and security

Around the world, LGBTI people face bias, discrimination and even violence from state actors whose role is to maintain the rule of law, justice and security.⁷¹ Abuse by law enforcement and security actors is often overlooked.

Women, Peace and Security (WPS), a political and policy agenda underpinned by a series of UN Security Council Resolutions, marks a shift in global understanding of gender and security. Not only does it highlight the disproportionate and unique impact of conflict on women and girls, but it also highlights their role as peacebuilders and the need for their full and equal participation in peace and security processes as an imperative to lasting and socially accepted peace.

Twenty years since the adoption of the landmark Resolution 1325,⁷² there is growing recognition that not only sex but also sexual orientation and gender identity add layers of vulnerability for those people living in any peacemaking and development context. In conflict and crisis situations, exploitation and humiliation of LGBTI people is common and happens at the hands of both conflict actors and civilians. It is perpetuated by the culture of impunity around such abuse and exacerbated by the fact that LGBTI people often lack family or community ties and economic security.

The UN Security Council itself has been reluctant to address this issue, as it embodies a human rights perspective. Despite this, there has been a demonstrable, albeit slow, shift at both the international and national levels in recent years. In his 2019 WPS Report, the UN Secretary-General called on UN peace operations “to continue to improve their monitoring and reporting of threats and violence against activists ... with data disaggregated by, among others, sexual orientation and gender identity”.⁷³

Several countries now recognize the specific security needs of LGBTI people in their WPS national action plans.⁷⁴ LGBTI organizations are now part of the NGO Working Group on WPS, while more inclusive alliances of women's and LGBTI CSOs form a stronger voice calling for agency and protection of people who are discriminated against because of their SOGIESC.

Taking a more inclusive gender perspective that accounts for the experience of women and SOGIESC alike makes the Women, Peace and Security (or “Gender, Peace and Security”) agenda an important tool for inclusion that an MP can apply in the oversight of the security, justice and related sectors.

By scrutinizing the actions of law enforcement and security actors and by shaping the legal frameworks that regulate them, you have the power to ensure that the specific security needs and challenges of LGBTI people are being heard and met. By speaking up and advocating for the accountability of law enforcement and security actors, and by engaging constituents, you can help end the culture of impunity and tacit acceptance of abuse.

⁷¹For example, in Poland, a study showed more than 57 percent of LGBTI people distrust the policy, and only 4 percent of those who experienced homophobic violence reported it. Campaign Against Homophobia, [Situation of LGBTI Persons in Poland](#), 2015-16 report.

⁷²S/RES/1325.

⁷³S/2019/800.

⁷⁴Argentina, Albania, Japan, Sweden, Switzerland, the UK and the US.

6. LESSONS LEARNED

from progressive
actions around the world

Across the globe, in every region, MPs have employed a range of arguments and strategies to protect the human rights and inclusion of LGBTI people, and they continue to do so. Crucially, their actions have been designed for local circumstances and to meet specific needs in distinct social and legal contexts, and they have harnessed opportunities as they arise. This local focus and design has been a major factor in the progression of this work and its many successes.

Consistent lessons have been learned from this committed and persistent work over many years, which continue to inspire others and can be applied in almost every context. As an MP, you can adapt and apply these key lessons to your own country/region and political circumstances. Your first actions may set in train a long-term human rights advocacy and education strategy that will be taken up by other MPs in the future.

Learn from experiences in other countries. Contact fellow MPs who have gone through similar processes and identify lessons learned that are transferable or adaptable to your own situation. The arguments for and against legislative proposals on LGBTI human rights are often similar even though made in different contexts; use them to build up your own arguments. Be aware of the positive impacts of successful reforms elsewhere, and apply them to counter ignorance, prejudice, and fear-mongering.

Talk to [your constituents] about the rights of children, your neighbour's child who may belong to the LGBTI community ... You can't reach out to a mob; you have to deal with the individual first before you go to small groups and eventually escalate it."

– Hon. Fox Odoi-Oywelowo, Uganda

"[In the Middle East and North Africa region], so much of the focus has rightly been on women, and it's absolutely right that it should be that way ...

We need to move on now and see men as more than just the pillar of the patriarchy ... We need to bring them in, we need to understand how they are seeing change in the region and we need to engage them in the process ... to explore the issues facing men and definitions of masculinity in the Arab region, especially in the shifting political economy and social order."

– Shereen El Feki, "Sex and the Citadel", lecture delivered at the Centre for International Governance and Engagement (CIGI), 29 March 2013.

Lesson 1. Find the right entry points to effect or support reform.

Entry points for reform will always be highly context specific, but they always exist. Sometimes they will take the form of moving or supporting direct constitutional reform and legislative interventions. Where the requisite political support and legislative numbers simply cannot be mustered, they may include support for court action to drive reform and then taking follow-up legislative action. In other cases they may be limited to working with communities to change opinion over time to permit more direct reform, and to use the budget and oversight power to limit the harm that enforcement of regressive law and policies can do. In many countries, a deliberate, incremental strategy has been employed to lay the foundation to secure further rights as conditions allow (see Lessons 5 and 7). There is particular power in ensuring that the country's constitution enshrines broad-based human rights protections.

- In **South Africa**, the 1996 Constitution became the first in the world to explicitly prohibit discrimination on the grounds of sexual orientation. This was a key foundation for the incremental development of equality law for LGBTI people that followed. Human dignity, equality and human freedom, the cornerstones of the Constitution, provided the basis for Parliament to subsequently repeal discriminatory laws to promote and protect human rights, and to empower the judiciary to strike down inconsistent legislation.
- In **the Netherlands**, prior to 2021 the Constitution did not include explicit protection against discrimination on the basis of sexual orientation. Governments had not been opposed to LGBTI rights but did not make constitutional reform a priority. Advocates for constitutional change reasoned that **the lack of an express constitutional provision meant that any LGBTI human rights guaranteed in an ordinary law could in theory be taken away by another such law.** The impetus for constitutional reform was the need to explicitly secure protections across the full range of SOGIESC status, beyond the category “sex” that covered gender identity and gender expression, by using inclusive and well-defined terminology (e.g. “sex” properly understood and defined should include intersex status). The 2021 reform added protections based on sexual orientation and sex characteristics, including intersex status. With a new mandate after the 2017 elections, Parliament voted to enact the constitutional change bill, which explicitly provides protection against discrimination on the grounds of SOGIESC. Debate on the bill drew attention to the need for further legislative reform.

In many contexts, LGBTI human rights and inclusion are sensitive topics. Championing LGBTI rights and campaigning for their legislative protection may not garner widespread support and are more likely to prove counterproductive. In such contexts, a common and successful strategy has been to work from the non-controversial entry point of health, including the human right of equitable access to appropriate health care for all. **The drive to combat HIV is a particularly powerful entry point in a country where a human-rights-based HIV response is already well established.** The health agenda is also a critical entry point for decriminalization of consensual same-sex activity. Criminalization impairs the uptake by MSM and other marginalized populations of HIV and other sexual and reproductive health and rights (SRHR) services because of their legitimate fear of human rights violations on coming forward. Decriminalization is thus a fundamental tool in the global fight against HIV/AIDS.

- In **Zimbabwe**, HIV and health provided a successful entry point for advocacy for LGBTI inclusion and to sensitize and educate MPs about the links between the two issues. The UNDP project “Linking Policy and Programming” (2016–2020), focused on strengthening HIV and SRHR rights of young members of key populations in law, policy and strategy, had laid the groundwork for strategic engagement and advocacy for legal and policy reform. The existing health platform was leveraged to create a platform for dialogue between MPs and civil society dedicated to LGBTI rights inclusion. Advocacy for decriminalization of same-sex activity was given a low profile, allowing broader issues with wider applicability, such as HIV and universal access to health care, to carry it through legislative reform.
- In **Mozambique**, CSOs used a similar public health approach to lead discussion on the benefits of decriminalization of consensual same-sex conduct. The reform of the Penal Code included various issues such as abortion and sex work, which became subject to heated debates involving religious institutions, MPs and the general public. Again, decriminalization of consensual same-sex conduct was given a low profile and was achieved as part of a broader package of reforms.
- In **the Democratic Republic of the Congo (DRC)**, decriminalization was approached through the lens of the HIV response specifically to counter the fact that LGBTI human rights and inclusion are sensitive topics. The advocacy tool developed by a broad coalition of civil society actors and MPs refers to “categories of the population who are stigmatized and consequently find themselves in positions of vulnerability to HIV”, which include but are not limited to LGBTI people, and “certain legal concerns about the best attitude to take to save lives”.

Where LGBTI people are a recognized sub-population and their societal roles may be valued under local cultural conditions, but it is difficult to progress domestic law reform to decriminalize consensual same-sex activity and protect the full range of human rights in accordance with international human rights instruments, women’s CSOs and NGOs often provide an entry point.



Credit: UNDP

- In **the Pacific region**, momentum for law reform for Sexual Orientation, Gender Identity and Expressions and Sex Characteristics with all intersectionalities (SOGIESC+) rights is less advanced than the women’s movement but has been growing over the last decade with some strong and active Pacific SOGIESC+ NGOs working at different levels. In Fiji, there is a large and diverse group of PIDSOGIESC+ NGOs who work across a range of SOGIESC+ rights issues, including law reform. Activists in Tonga and Samoa also have a long history of locally contextualized advocacy around these issues. The Pacific Sexual and Gender Diversity Network (PSGDN) has emerged in recent years as a regional focal point for PIDSOGIESC+ advocacy across the region. Its strategic plan (2020–24) prioritizes law reform as one of its three main pillars of work. PSGDN has 14 national members, including members in each of the nine Commonwealth Pacific countries, who provide good entry points for national engagement. It is important to note that considerable progress has been made in recent years largely due to advocacy from Pacific civil society.⁷⁵

Judicial decisions that call on parliament to change the law in favour of LGBTI rights and inclusion create a significant opportunity to act. This is especially the case in countries where the courts lack the power to declare legislation unconstitutional and therefore of no effect, and so corrective legislation is essential. But even when a court can and does strike down or read provisions into a law, legislation will often still be needed. The opportunity here may be to build coalitions to pressure the government to act swiftly and effectively to change the law. If the government is reluctant to act then the opportunity may be to draft private member’s legislation, in countries where the legal system permits this. Even when inclusive legislation is introduced into parliament, there may not be majority support for it across the legislature. Coalition-building and influencing opinion is always important (see Lesson 4).

- In **Pakistan**, the Supreme Court issued a landmark decision in 2008 directing the Government to ensure, among other rights, transgender people’s access to education, employment and identity papers, and their right to vote. This decision provided the legal justification and a strong philosophical foundation for introduction of the Transgender Persons (Protection of Rights) Bill (see Lesson 4).

In the absence of judicial leadership on the issue of LGBTI rights and inclusion, and when reform by legislative means seems impossible, there is always some other point from which progress can be made. Budget and oversight powers are powerful entry points where there is resistance to legislative reform (see section 7).

One of the most effective entry points is supporting and working with civil society leaders to bring pressure to bear on the government, challenge existing norms and build public support for reform (see also Lesson 4). You can support NGOs and human rights defenders to speak out, invoking regional human rights instruments and “soft law” and encouraging local and regional leaders to apply human rights standards to sexual orientation and gender identity issues (see Lesson 6).

⁷⁵ Charmaine Rodrigues, *A Fairer Future: Law Reform and Advocacy Opportunities for Women’s and PIDSOGIESC+ Rights in the Commonwealth Pacific* (Royal Commonwealth Society, 2019). See in particular Part 5, which provides a summary of law reform entry points, and Annex 1, which provides a detailed analysis of the key legal issues facing the Commonwealth Pacific around gender equality, women’s and PIDSOGIESC+ rights.

Lesson 2. Under international law and regional human rights law frameworks, LGBTI rights are human rights and governments have an obligation to honour them as such.

International law obligates countries to uphold what they have signed up to. Under the UN's international rights framework, that means the protection and full enjoyment of human rights for all. Regional instruments are also significant, and potentially more politically persuasive, vehicles for protecting LGBTI rights (see Lesson 6). For a government *not* to uphold the provisions of these instruments, particularly under any pretext that purports to be of greater or higher authority in a local context, is disingenuous, politically self-serving and in violation of international law.

As an MP, you have a responsibility to hold your government to account on its human rights obligations under international and domestic law. The UN treaty bodies, UPR and related processes are important levers to use and can have real effect if used wisely. Your support for the use of treaty enforcement mechanisms, as well as “soft law” such as resolutions of regional bodies, can create powerful opportunities for debate leading to changes in public opinion and domestic law. You can initiate parliamentary questions, motions, resolutions and statements in support of legislative reform and repeal of antiquated laws that are inconsistent with human rights law.

- In **the DRC**, a key advocacy tool in the successful campaign to prevent the introduction of an anti-homosexuality bill, the *Argumentaire Technique Contre la Criminalisation de Certaines Populations Clés*, elaborates on relevant international and regional legal texts. The DRC being a monist state,⁷⁶ international law principles constitute strong counter arguments to criminalization.
- In **Angola**, CSOs advocating alongside MPs for decriminalization and further human rights protections to be enshrined in a new Penal Code engaged with UN treaty bodies (notably CEDAW) and the UPR process, which resulted in specific recommendations to the Government. Despite the new Code limiting certain grounds for protection, decriminalization of same-sex sexual conduct and legislative protections against discrimination based on sexual orientation were praised during the country's UPR process in 2020.⁷⁷
- In **Bhutan**, the negative international perception of the country created by its continuing to criminalize MSM conduct was a critical factor in securing high-level support for the decriminalization measure. In introducing the bill, His Excellency Lyonpo Namgay Tshering stated that, “This section ... has become so redundant and has never been enforced. It is also an eyesore for international human rights bodies.” Under mounting international pressure, decriminalization in 2020 allowed Bhutan to report that it had complied with the recommendations of the UPR.
- In **Pakistan**, adoption of the Transgender Persons (Protection of Rights) Act 2018 sent a clear message to society that human rights and inclusion matter. It also signalled to trans people that many elected representatives welcomed interaction with them, stood up for them and prioritized their legal right to protection and social inclusion. Passage of the Act has strengthened interaction between MPs and the LGBTI community, broadening the scope of understanding of LGBTI human rights and input to parliamentary work.

⁷⁶ The current Constitution of the DRC stipulates in article 215 that international treaties and agreements regularly concluded have, from the moment of their publication, an authority superior to that of laws, subject to the application of each treaty or agreement by the other party.

⁷⁷ A/HRC/43/11.

Lesson 3. Leadership matters

Harnessing public opinion is a powerful tool for advancing progressive legislation. Often, public opinion runs ahead of the desire of parliaments to enact reforming legislation, particularly to ensure protection of the most marginalized in society. Where this is so, it offers a clear opportunity for parliament to act. It can also enhance the political capital of the sponsoring and supporting MPs.

In some circumstances, timing will be crucial. Best practice is for a legislative measure to receive careful consideration over time, with evidence-based submissions from the public and experts improving its content. Sadly, in the case of measures to expand human rights and inclusion, the political climate is sometimes so charged and prejudice so entrenched that **it may be preferable in a representative democracy for parliament to act promptly to lead debate**, provided it is satisfied with the quality of the legislative proposal.

It can be politically easier to enact a reform that is not at the top of a public agenda by proposing it in tandem with one that is. For example, most people – whether or not they accept lesbian, gay and bisexual (LGB) people – have some understanding of the concept of sexual orientation, which is manifest and visible in most societies. Less numerous and less visible are trans persons and intersex persons.

Hence, spearheading reform efforts with anti-discrimination measures for LGB peoples is likely to gain greater public understanding, generate better debate and, ultimately, be better supported than anti-discrimination measures to address the human rights of minority LGBTI groups. Sometimes this can allow law reform to embrace the totality of LGBTI groups because the public debate does not go much beyond the LGB focus.⁷⁸ The risk, however, is that public acceptance and understanding for minority-interest measures will take longer. Furthermore, textual problems can arise if legislative provisions do not undergo focused scrutiny prior to enactment.

- In **Portugal**, in 2018, Parliament adopted a law protecting the human rights of both transgender and intersex people. A legislative process to address shortcomings in the Law of Gender Identity (2011), securing the right to self-identification and legal recognition for trans persons, became an opportunity to enshrine the human rights of intersex people – two distinct reforms were advanced simultaneously. Public debate indicated a lack of understanding of the detail of the reform proposal and that two distinct interests were being legislated for. In the absence of an organized and visible intersex civil society movement, transgender issues monopolized the debate, with public opinion apparently giving overwhelming support to the reform proposal – and the measure was passed. Thus, explicit protection against unconsented surgery on intersex persons was also enshrined in law. This would almost certainly not have happened if the issue had to wait for a standalone measure backed by favourable public opinion.

⁷⁸ When this is so, however, it is important not to gloss over details or inadequacies in law reform proposals, or to contribute to further rendering members of particular groups invisible.

The law has had positive impacts on both the transgender and intersex communities. That trans minors aged 16 to 18 can now have their self-determined gender legally recognized has opened space for discussion within families, with CSOs reporting a surge in families asking for advice on how to support their trans child. The law has also opened a conversation on the rights of intersex persons, who were previously virtually invisible. Importantly, however, the lack of focused scrutiny on the rights of intersex people during the legislative process has revealed some shortcomings in the law and the need for amending legislation.

Sometimes, the decision by MPs to expend political capital by leading debate and pushing through reform can yield a significant breakthrough that allows an ongoing programme of reform for LGBTI human rights.

- In **New Zealand**, the process of homosexual law reform provides [an object lesson in MPs acting well in advance of public opinion](#) to lead rather than follow public opinion. Despite very low public support for homosexual law reform, a coalition of MPs, LGBTI activists and their supporters, headed by a heterosexual female backbench MP, executed a multi-pronged nationwide strategy to garner sufficient support in Parliament to enact the Homosexual Law Reform Bill in 1986. The Act opened space for a raft of less controversial reform measures in subsequent years, demonstrating how rapidly positive and inclusive social change can take place through parliamentary action. On the 35th anniversary of the passage of the bill into law, its sponsor, Hon. Fran Wilde, remarked that, “Thirty five years does seem like a long time ago, but actually there is still more to do. So, we haven’t finished yet.”



New Zealand MPs, Lord Speaker of Tonga and LGBTI activist Joleen Mataele at a PGA event on LGBTI inclusion in the New Zealand Parliament, March 2019. Credit: PGA.

As the New Zealand example has shown, **some changes to laws and policies to improve LGBTI inclusion may not be as controversial as many might predict.** Although there are important geographical exceptions, the global trend is that social attitudes – especially among younger people – are changing rapidly in favour of inclusion.⁷⁹

Apply your own unique political assessment to the timing of and conditions for a particular reform opportunity or proposal. Doing so may highlight a chance for political and thought leadership on your part that makes a major and positive difference to peoples' lives, and that colleagues applying more traditional judgements may miss.



I am not scared of attention to my support for LGBTI issues. If we as politicians pay attention only to what is popular, not much will change. Someone has to open the door for challenging issues, like the human rights of LGBTI people. It is very important to really believe in what you are saying and doing as a politician – and not only taking care of the ratings and attitudes of the majority. For instance, in some European countries until 50 years ago women had no right to vote but that has changed. I'm happy that public opinion regarding LGBTI rights in North Macedonia is changing in a positive direction and the LGBTI caucus has contributed to that. We managed to pass the law against discrimination in which sexual orientation and gender identity are explicitly stated as a basis for discrimination and that influences the society.”

– Maja Morachanin, MP, North Macedonia, head of the inter-party parliamentary group on LGBTI human rights, and member of PGA

⁷⁹ Jacob Poushter and Nicholas O. Kent, [The global divide on homosexuality persists](#), 25 June 2020.

Lesson 4. Coalition-building is vital.

Build alliances with civil society – this is perhaps the most common strategy used across the globe, and arguably the most beneficial. CSOs working on human rights and with LGBTI people have deep knowledge and direct experience of discrimination and understand the context of LGBTI people’s lives, the challenges they face and their particular needs. Working closely with them will enable MPs to legislate appropriately and effectively to protect their human rights and inclusion.

- In **the Netherlands**, the longstanding connection between CSOs and MPs underpinned their joint efforts to support a bill to include protection against discrimination on the basis of sexual orientation in the Constitution, which was adopted in 2021.
- In **Mozambique**, the Penal Code was reformed in 2015 to decriminalize MSM activity, following a widespread, inclusive process of consultation and partnership with civil society. LGBTI CSOs forged alliances with others focused on feminist and sexual health and rights to contribute to the parliamentary reform process. They gained widespread social respect, their profile was raised and doors were opened for LGBTI representatives to engage in ongoing dialogue with MPs and the wider public.
- In **Zimbabwe**, CSOs, including LGBTI representatives, initiated a bus tour dubbed “Parliament meets the Key Populations” that brought MPs to local communities to interact in person with and improve their understanding of people who are at higher risk of HIV infection, including MSM and trans women. The initiative respected the ownership of activities by LGBTI communities themselves, empowering them and helping them produce strong community leaders who can in turn work as effective counterparts for MPs in reform campaigns.
- In **Bhutan**, during debate in the National Assembly to decriminalize consensual same-sex relations, CSOs and LGBTI members of civil society engaged directly with MPs, sharing their personal experiences and encouraging them when the reform met opposition in the upper chamber. During the final vote, LGBTI organizations were present, encouraging and supporting MPs to vote for the repeal.
- In **Uganda**, LGBTI-supportive MPs and civil society worked closely together to defeat the proposed 2009 Anti-Homosexuality Bill. The Civil Society Coalition on Human Rights and Constitutional Law was formed to provide human-rights-focused public education, sensitization and education of MPs on the adverse legal and social implications of the bill (see Lesson 7).

Build a broad coalition for reform. The more widespread and influential your support, the more powerful and effective the coalition will be. If urgent action is required, create a platform from existing resources. Existing steering committees, working groups and networks can act as catalysts for action, especially when a quick reaction to a threat to LGBTI human rights such as criminalization is needed. Work with family members of LGBTI people who are willing to share personal stories. Find allies outside the LGBTI community: lawyers and academics, business leaders, public role models and media personalities who can influence others. **It is vital to seek support from the most influential members of civil society: in Argentina, the support of religious leaders was a crucial factor in enabling a raft of progressive legislation.**

International support and precedent can have a significant impact towards reform, but requires careful strategic consideration (it could easily be decried as neo-colonialism, prompting public backlash that stalls reform or leads to further regression). Draw from the experiences of other countries and forge partnerships with those involved in advancing reform, to help build arguments and provide concrete examples of the recognition of human rights for LGBTI people. PGA and multilateral agencies can provide technical assistance and networking opportunities with MPs in other countries.

- In **Argentina**, the Roman Catholic bishops lent their unrivalled civil authority and powerful platform to the campaign for progressive legislation on equal marriage and gender identity. And, in a singularly strategic move, LGBTI CSOs leading the Argentinian reform movement agreed on an advocacy plan with LGBTI organizations based in other countries. When the President of Argentina was on official missions, those organizations asked to meet her, taking the opportunity when doing so to advocate for progressive laws in Argentina.
- In **the DRC**, the prior existence of a Working Group on HIV and Human Rights, including representatives of the Ministry of Health, civil society and other stakeholders in the HIV response, helped to create a platform to act quickly against the legislative proposal for an anti-homosexuality bill. They developed an advocacy tool directed at multiple stakeholders, including MPs, human rights defenders, key populations and anyone taking part in the HIV response, to give them the technical arguments, specifically relevant to the local context, to argue against the rationale given for the proposed bill. The coordinated action, backed by two members of the Government who were responsible for the SOGI portfolio, was effective – the bill was not introduced.
- In **Portugal**, throughout the legislative process to protect the rights of transgender and intersex persons, Government and MPs consulted psychologists, medical organizations and other influential experts. Respectful, evidence-based debate in the media drew attention to the separate challenges faced by transgender and intersex persons and the distinct legal measures proposed to alleviate them. CSOs consulted organizations in countries that had already adopted legal gender recognition legislation based on self-determination (Ireland) and protection against unconsented surgeries for intersex infants (Malta), Transgender Europe (on transgender human rights) and OII-Europe (on intersex human rights) and fed their expertise into the parliamentary process.
- In **South Africa**, a broad coalition of LGBTI people, the national liberation movement (at home and in exile) and the leadership of the ANC government in waiting worked to raise awareness of LGBTI human rights, supported by high-profile political leaders involved in both the transition to democracy and the drafting of the new, inclusive 1996 Constitution.

Work across political parties. It is important to use all the tools at your disposal. For example, the strongest tools the European Parliament has are legislation and adopting official positions through resolutions, but legislation relevant to LGBTI rights is not common and resolutions are not always easy to set up. Other tools, such as written questions and oral questions to the European Commission, amendments to reports to reflect the needs of LGBTI communities and letters to build diplomatic pressure, can be effective, especially in combination with other types of action. A position that is first adopted in plenary in a report can be recalled in written questions to the Commission or other institutions and then used in a letter to authorities to create media and diplomatic pressure. **The key is to link initiatives to create a compound effect.**

An important and highly relevant lesson from the LGBTI InterGroup of the European Parliament (see below) is to build cross-party alliances and use supranational parliamentary procedures where possible, to build wider support for reform and more wide-ranging impact for legislative or other measures. Even when inclusive legislation is introduced, there may not be majority support for it across the legislature. Coalition-building and influencing opinion may prove critical to getting legislation across the line. Focus on human rights and the values of non-discrimination and inclusion, which most political parties express some commitment to. Engaging one-to-one with political leaders, ministers, the President, public prosecutors, etc., away from the public eye, can be an effective strategy to raise awareness and shift perspectives towards reform.

Experiences in the European Parliament are certainly applicable to other parliamentary contexts. Cross-party caucuses are especially needed in times of public and official opposition to LGBTI human rights. **Most important is using your position as an MP to help forge political will and a favourable climate for progress.**

- The cross-party **LGBTI Intergroup of the European Parliament** used the power and reach of the supranational institution to forge a resolution in 2021 in direct rebuttal of state-sponsored LGBTIphobia in Poland. Rising hate speech and discrimination had already resulted in more than 100 Polish municipalities declaring themselves “LGBTI-ideology-free zones”. In 2019, the European Parliament adopted a first resolution condemning such zones and demanding action from the European Commission. Pierre Karlesking MEP initiated the idea of a resolution declaring the whole EU an LGBTI freedom zone. Lobbying by the Intergroup across all political groups, and widespread support from EU Commissioners, including the President, national political leaders, MPs, NGOs, activists and the media, raised the resolution to the Commission’s plenary agenda, where it was adopted. Poland now has to answer to the Commission directly under European law.
- In **Poland**, the 40-member parliamentary Intergroup on LGBTI rights is helping counter the growing backlash against LGBTI people. Even the most open and progressive MPs acknowledge they have something to learn about the LGBTI community and the issues they face. The Intergroup has shown the LGBTI community that even amidst the strident anti-LGBTI discourses in Poland, there are parliamentary representatives who defend their human rights.

Being active in Poland in these difficult times of regression and backlash against the human rights of LGBTI people is crucial, even more than it was before. It is our role to say and show that we care about LGBTI people’s human rights. To use our face and names, to contribute our time and energy to show that the Parliament is for everyone and represents the interests of all citizens, including LGBTI people.”

– Krzysztof Smiszek, MP, initiator of the InterGroup in the Polish Parliament



Polish MPs at President Duda’s inaugural ceremony, August 2020. Credit: Sejm of the Republic of Poland.

- In **North Macedonia**, the power of cross-party groups is evident, particularly when they work in tandem with CSOs. An inter-party parliamentary group on LGBTI human rights “[uses] the available mechanisms of the Assembly of the Republic of Macedonia in order to build a society in which sexual orientation and gender identity will not constitute an obstacle to the full enjoyment of human rights and freedoms”.⁸⁰ The group has been highly effective in helping to forge political will as part of building a favourable climate for progress on LGBTI rights and societal inclusion. Its 15 members represent views across the political spectrum. Not every MP in the group is able to declare their support for LGBTI issues publicly, yet they are members and the constraints on them are accepted by the group. The group works closely with LGBTI CSOs, who provide expert input to legislative proposals, and engages with the media to build a public climate for reform.



Our group is a usual caucus in the parliament. It has established its legitimacy, we have noticed a positive change in attitude in the parliament when it comes to LGBTI human rights.”

Maja Morachanin MP, head of the inter-party parliamentary group on LGBTI human rights, North Macedonia

- In **the Netherlands**, the “Pink ballot agreement” introduced in 2012 by the national association COC Nederland, is a mutual agreement signed by political parties to address key LGBTI issues identified by civil society,⁸¹ which helped secure visible commitment and support from political parties during election time.
- In **Pakistan**, the Transgender Persons (Protection of Rights) Bill was introduced in the upper chamber by the majority party and adopted there. In the lower chamber, it was proposed by the opposition party, with little chance of passing into law. The bill’s sponsor, Hon. Syed Naveed Qamar, worked across party lines to garner support. The bill was introduced on the last sitting day of the National Assembly in 2009, reducing the opportunity for opposition and amendment, and was rapidly passed into law with support from all political parties.
- In **Argentina**, two cross-party working groups – the Political Parties Working Group and the Parliamentary Working Group in Favour of the Equal Marriage and the Gender Identity Laws – were instrumental in securing support from across the political spectrum, including the Executive, and the adoption of both laws.

⁸⁰ [The Inter-Party Parliamentary Group for Improvement of the Rights of LGBTI People was Constituted.](#)

⁸¹ COC Netherlands, [“Lessons Learned. The Pink Ballot Agreement”](#).

Lesson 5. MSM decriminalization is particularly important and, once passed, can lead to rapid opinion shifts that open opportunities for further reform for all LGBTI persons.

Decriminalization of consensual same-sex activity is imperative in all settings, even when the law is not enforced. Criminalization constitutes a fundamental breach of human rights, impairs the uptake by MSM and other marginalized populations of HIV and other health services (see Lesson 1) and legitimizes and provides formal impunity for discrimination and violence against LGBTI people, especially MSM and transgender women.

“The criminalization of people based on their sexual orientation goes against all international and regional human rights treaties. The new Penal Code introduces changes adjusted to the actual political, economic and social reality in Mozambique ... It serves to send the message that it is the duty of all nations to secure and provide equal human rights to all of its people.”

— Antonio Niquice MP, Mozambique

Specific legislative measures such as decriminalization of same-sex activity can open up further space for reforms (see the New Zealand example in Lesson 3). Many countries have employed a deliberate, incremental strategy to lay the foundation to secure further rights as conditions allow. This is the particular power of ensuring that the country’s basic law, the constitution, enshrines broad-based human rights protections. Parliamentary resolutions or judicial decisions can supplement broadly drafted constitutional protections, e.g. banning discrimination on named grounds and then on “other status”; or protections for privacy. Securing explicit protections on specific grounds for defined groups of people by legislative and judicial measures can ultimately generate a system of norms and public policies that foster the rights and inclusion of all LGBTI people in society.

- In **Angola**, consensual same-sex conduct was decriminalized with the new Penal Code coming into force in February 2021. The sweeping reforms represent a significant effort to remove many provisions that simply bore no relevance to the country’s current reality. Multiple provisions of the new Code include protections of rights based on sexual orientation, decriminalization of abortion and the introduction of aggravated sentences for corruption and discrimination in health care. Some provisions provoked heated debate among MPs and the public, while decriminalizing MSM activity was relatively uncontroversial, which helped the colonial-era criminalizing provision to be quietly dropped. Overall reform of the Penal Code, with multiple rights-based issues being debated at the same time, created the opportunity for inclusion of non-discriminatory language in other processes and blunted opposition to reform – and became a blueprint for the region.

- In **Argentina**, adoption of the Equal Marriage Law in 2010 opened the way for more progressive legislation. On its enactment, a legislative campaign began immediately for approval of a Gender Identity Law, which passed in 2012. These laws have helped shape public opinion in favour of further progressive legislation and public policies. In 2021, Argentina adopted three laws fostering LGBTI inclusion: (i) an option for a non-binary option, “X”, on national identity cards and passports, (ii) provisions on voluntary interruption of pregnancy of all pregnant persons, recognizing the rights and autonomy of women, lesbians, trans men and non-binary persons, and (iii) establishment of a mandatory quota of transgender people in employment.
- In **South Africa**, since the adoption of the new Constitution in 1996, MPs have repealed many discriminatory laws and also enacted protective laws, thereby strengthening the human rights legal framework that has been critical to deepening rights and freedoms for LGBTI people. In conjunction with robust judicial enforcement of the Constitution, these significant developments have also contributed to an official culture of law that affirms equality and to social norms that are increasingly inclusive.

Lesson 6. Law reform in an influential regional jurisdiction can open debate and entry points for reform elsewhere in the region.

Regional impetuses for reform can be important. Even if the legal and political processes are different, **legislative progress in other countries can be influential, especially where there are common languages and juridical traditions.** And new jurisprudence can help build arguments in favour of a legislative project.

- In **India**, Government action to decriminalize MSM activity long lagged behind case law established at the state and federal levels following strategic campaigning by LGBTI activists. In 2009, the Delhi High Court found section 377, a relic of colonial law that criminalized MSM activity, punishable by a maximum sentence of life imprisonment, and other anti-LGBTI legal prohibitions, to be in direct violation of fundamental rights provided by the Constitution. The Supreme Court had previously ruled that decisions of a high court on the constitutionality of a law apply throughout India. In 2012, the Indian Government asserted that there was no legal error in decriminalizing homosexual activity, and was reprimanded by two Supreme Court judges for frequently changing its approach to the issue. In 2013, the Delhi High Court decision was overturned by the Supreme Court based on several counter-petitions.

In 2018, the Supreme Court considered the validity of section 377 and the Government announced it would leave the case "to the wisdom of the court". The Court unanimously ruled section 377 unconstitutional as it infringed on the fundamental rights of autonomy, intimacy, and identity. The Court thus legalized homosexuality in India. It has since stated that discrimination based on sexual orientation is a fundamental violation of rights. The Court also directed the Government to take all measures to properly broadcast the fact that homosexuality is not a criminal offence, to create public awareness and eliminate the stigma members of the LGBT community face, and to sensitize the police force to the issue through special training. The judgment also included an inbuilt safeguard to ensure that it cannot be revoked again under the "Doctrine of Progressive Realisation of Rights". The Court's dicta remain ahead of government action on various fronts; for instance, same-sex relationships continue to have no legal status in federal law.

- In **Bhutan**, which had a similar colonial-era provision, the judicial decriminalization of MSM activity in India provided further impetus for decriminalization. In 2020, the National Assembly repealed the law that criminalized MSM activity in Bhutan. **The mere existence of the law, even though it was not enforced, had long resulted in severe negative impacts on LGBTI communities.** It had a chilling effect on LGBTI social inclusion, effectively licensing blackmail and semi-official harassment.

- In May 2014, the **African Commission on Human and Peoples' Rights** adopted Resolution 275 on Protection against Violence and other Human Rights Violations against Persons on the basis of their real or imputed Sexual Orientation or Gender Identity (see section 3.1), which strongly urges member States to end all acts of violence and abuse by enacting and effectively applying appropriate laws prohibiting and punishing all forms of violence, and other measures. It is especially significant that the Commission has been addressing the issue of discrimination against LGBTI people, including in its concluding observations and recommendations to African Charter member countries. It has explicitly included sexual orientation and gender identity in its soft law instruments, which are influential throughout most of Africa in raising important issues and helping countries set their own agendas for human rights protections for LGBTI people.
- The **South African Development Community Parliamentary Forum** (SADC PF) has published three "Model Laws" that member parliaments have been invited to adopt, or "domesticate", including one on HIV/AIDS in Southern Africa (2008).⁸² Six of its 15 Member States have decriminalized consensual same-sex activity (South Africa in 1994, Lesotho in 2012, Mozambique in 2015, Seychelles in 2016, Botswana in 2019 and Angola in 2021). It was never criminalized in Madagascar. The remaining eight continue to criminalize consensual same-sex activity but, in most of these jurisdictions, there is ongoing debate on decriminalization. **The Model Law on HIV/AIDS in Southern Africa is frequently cited in such debates and on the extension of anti-discrimination legislation to LGBTI people.**
- The new Penal Code of **Angola**, which decriminalized MSM activity and includes protections of rights based on sexual orientation, decriminalization of abortion and the introduction of aggravated sentences for corruption and discrimination in health care, created a blueprint for further efforts in the region to not only decriminalize consensual same-sex conduct but also develop positive provisions to address discrimination and violence, and to encourage further open dialogues about LGBTI rights.

⁸² The Model Law on HIV/AIDS in Southern Africa guarantees respect for human rights principles, rejects coercive approaches, addresses the root causes of vulnerability to infection, and ensures the protection of members of vulnerable and marginalized groups. It provides for a non-limitative enumeration of vulnerable and marginalized groups, including children, women and girls, sex workers, injecting drug users, refugees, immigrants, prisoners, internally displaced persons, indigenous and mobile populations, MSM, lesbians, transgender people and bisexual people. It also calls for the decriminalization of commercial sex work and consensual sexual relationships between adult persons of the same sex as specific measures to enhance HIV prevention.

Lesson 7. The same strategies to advance reform apply to efforts to prevent regression.

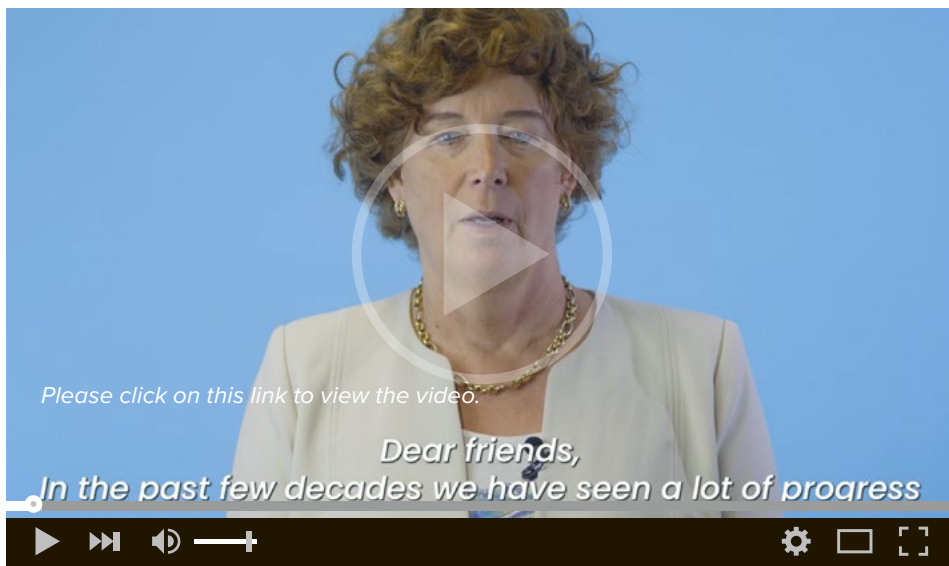
The same strategies to advance reform – finding entry points, working alongside CSOs, building a broad coalition, working across political parties, pursuing strategic litigation, etc. – also apply to efforts to prevent regression.

- In the **European Parliament**, the LGBTI Intergroup invoked supranational parliamentary and judicial authority to rebut regressive state-sponsored LGBTIphobia in Poland (see Lesson 4).
- In **Uganda**, **a regressive and punitive piece of legislation targeting MSM was scuttled through the concerted efforts of a powerful coalition of forces** (including MPs, religious leaders, opinion leaders, scholars, teachers, the CSO Sexual Minorities Uganda, and the Civil Society Coalition on Human Rights and Constitutional Law) **using a combination of strategies**. The Anti-Homosexuality Bill of 2009 sought to penalize homosexuality by further criminalizing same-sex sexual conduct, beyond the existing Penal Code's potential penalty of life imprisonment (to include the death penalty), and targeting the perceived "promotion" of homosexuality, e.g. by human rights organizations or those providing specialist health services or working on HIV prevention. The Civil Society Coalition supported parliamentary opposition to the bill through public education activities, engagement with local and international media and UN human rights bodies, making submissions to Parliament and sensitizing MPs to the adverse legal and social implications of the bill. Some MPs argued before the relevant select committee that the bill offended international human rights instruments. However, their minority report was not accepted in Parliament and, in February 2014, with a revised penalty of life in prison, Parliament passed the bill into law. This led to national and international outrage. Opponents of the law then moved to an incremental litigation approach, challenging the lack of explicit protections for LGBTI people, which prevented them from enjoying the human rights guaranteed in the Constitution. In August 2014, barely six months after its enactment, the Constitutional Court annulled the law – but on a technicality (it had been passed without a quorum). With significant international pressure having been placed on Uganda to drop the bill, President Museveni declined to sign the subsequent, equally punitive, 2021 Sexual Offences Bill, instead returning it to Parliament on technical grounds, where it remains under debate.

7. Stepping up in your own country

Advancing the rights and inclusion of LGBTI people is the responsibility of all MPs, regardless of their own and their constituents' sexual orientation, gender identity or sex characteristics.

As an elected official and a public figure you have a unique platform, in parliament and day-to-day life, to restate, respect, and uphold the human rights of all individuals, including LGBTI people. **There are many ways you can act, and many tools and resources to support this critical work.**



Petra de Sutter, Deputy Prime Minister of Belgium; video message for the launch of 'Advancing the Human Rights and Inclusion of LGBTI People: a Handbook for Parliamentarians', 2021..

It is not enough now in the Middle East and North Africa region essentially to define what we want in opposition to the West ...

It's always defined in opposition to the West, that we don't want to be Western. But that is not a positive framework. We need to move beyond that and figure out how we are going to define the achievement of sexual rights in an Islamic framework. Millions of people across the Arab world want to live their lives within the parameters of their faith, be it Islam or Christianity. **It is possible to find flexibility and realise many of these rights within an Islamic framework**, so long as we have the freedom to think and act for ourselves."

– Shereen El Feki, "*Sex and the Citadel*", lecture delivered at the Centre for International Governance and Engagement (CIGI), 29 March 2013.

7.1 Use your multiple roles: representation, legislation, oversight

7.1.1 In your representation role

You can:

- Promote and protect the equality of all your constituents without discrimination on any basis whatsoever, including on the basis of SOGIESC.
- Meet and speak directly with LGBTI people, to learn from their testimonies and life experiences, for example in accessing health, justice, housing, education, civil registrars and other public services; do so with respect for their privacy and dignity. Be sensitive to the sub-populations within the LGBTI community and their particular needs.

“ I thought, you can't be what you can't see, that's really important.

I felt, you know, as a gay Aboriginal person living in Central Australia, when I looked at the Council at the time, it was predominantly non-Indigenous, middle class, over-50, who made up the Council, and I didn't think that that was representative of our community at all.

And to also make sure that we're at the table rather than being on the menu.”



– Chancey Paech MP, Northern Territory, Australia, the first openly gay Indigenous politician when elected in 2016, now the first Indigenous Speaker of an Australian Parliament

- Establish a dialogue with civil society organizations (CSOs), movements and networks that advocate for the rights of LGBTI persons, and with those working for the rights of other vulnerable or marginalized groups (people living with HIV, women, young people, people with disabilities, people experiencing racism, etc), to better know your community.
- Connect and partner with CSOs and human rights defenders working in your country to learn about and monitor violations of the human rights of LGBTI people and determine how to tackle them. This is likely to be the most effective strategy you can employ if your government will not act to protect LGBTI rights and the political context is hostile to LGBTI communities (e.g. in States where the political climate requires CSOs and NGOs to lead the way).
- Get to know LGBTI organizations, support their events, take part in Pride parades, speak publicly in support of the rights and inclusion of LGBTI people.
- Ensure that issues and decisions that are important to LGBTI people are properly heard and action is taken based on credible, reliable information and knowledge resources.
- Increase awareness about the LGBTI community, including among law enforcement officials, so they can identify and respond appropriately to specific forms of discrimination experienced by LGBTI people.
- Promote equality and non-discrimination, and advocate for action on issues of concern and urgency for LGBTI people, whether or not they are your constituents.
- Advocate to ensure that there are no barriers to LGBTI people accessing services on at least the same basis as other constituents.
- Share best practices, lessons learned and other information about LGBTI human rights in your country with regional and global colleagues and contribute to resources for global and regional parliamentary action in this field.
- Use your access to mainstream media and social media to:
 - disseminate positive messages about LGBTI people;
 - encourage positive dialogue with LGBTI people;
 - encourage discussion about their human rights and inclusion;
 - counter discrimination and stigma in the media and public dialogue;
 - speak up against hate speech in the media and on social media platforms;
 - facilitate dialogue and actions between LGBTI groups and their allies, and mainstream media.



A former independent Lebanese parliament member asked me, ‘How can we mobilize the LGBT vote in Lebanon?’ She wanted to understand why the Lebanese ‘LGBT community’ had not voted as a block in the 2018 parliamentary elections to oppose sectarian political parties ... Her question made a common, but misguided, assumption – that one aspect of identity overrides all other factors, including class and sectarian allegiances, patriarchal dominance, and social inequality. In Lebanon, for example, a poor queer woman will most likely vote based on her more immediate economic best interests. This may mean choosing her sectarian leader, because patronage networks often entail using one’s sect to obtain basic services. She cannot be expected to choose her queerness over her livelihood.

“The parliament member’s question raises a broader issue: the trouble with the phrase ‘LGBT community’. The term implies a coherent group identity, based solely on a shared sexual orientation or gender identity. It suggests a homogeneity that does not exist ... This is especially apparent in regions of the world in which there are sharp economic and power disparities, including in the Middle East and North Africa.”

– Rasha Younes, [“The trouble with ‘the LGBT community’](#)”, The Nation, 28 July 2021

Building inclusive democracies: A guide to strengthening the participation of LGBTI persons in political and electoral processes

The UNDP “Guide to strengthening the participation of LGBTI+ persons in political and electoral processes” offers guidance and practical tools for those taking part in political and electoral processes with the purpose of promoting the participation, human rights and inclusion of LGBTI persons. It brings together strategies developed by a wide range of stakeholders committed to the rights of LGBTI persons, including political leaders, electoral management bodies, political parties, CSOs, parliaments, journalists and international electoral support practitioners. It highlights good practice from more than 60 countries, especially in the Global South, identifying entry points for greater participation by LGBTI persons throughout the electoral cycle and the wider political process. Using a human rights perspective, the Guide presents strategies to foster civic engagement by LGBTI people as voters, candidates, elected representatives, electoral administrators and activists.

Meaningful participation in democratic systems is generally based on the free exercise of civil and political rights, including the rights to vote and be elected, the rights to freedom of expression, association and peaceful assembly, the right to participate in the formulation of government policy, equal access to public service at all levels of government, and participation in non-governmental organizations and associations concerned with the public and political life of the country. Embracing sexual and gender diversity and promoting the human rights of LGBTI persons is essential to building more inclusive and stronger democracies.

7.1.2 In your role as a lawmaker



President of PGA meeting with Chair of the Ukrainian Human Rights Committee, 2018. Credit: PGA

You can promote legislative measures to ensure:

- The enactment of comprehensive laws that specifically prohibit discrimination based on sexual orientation, gender identity and sex characteristics.
- Laws that guarantee access to justice, housing, employment, health care, education and legal recognition (i.e. official documentation) for LGBTI people.
- The repeal of laws that criminalize same-sex activity between consenting adults and laws that criminalize transgender people based on their gender identity and expression;



At the United Nations Development Programme (UNDP), we are working as part of the UN family to help break the silence that harms LGBTIQ+ people and ultimately impacts us all. UNDP is currently working in 53 countries, partnering with LGBTIQ+ communities and policymakers, to strengthen inclusion of LGBTIQ+ people in national development initiatives. On this day, let's raise our voices and recommit our efforts to put human dignity at the heart of all that we do to build more just and more inclusive societies.”



– Achim Steiner, Administrator, UNDP, 2020 www.undp.org/speeches/international-day-against-homophobia-biphobia-and-transphobia

- Protection of individuals from homophobic, biphobic, transphobic and interphobic violence through:
 - adopting laws that protect all individuals from violence, including those targeted on the grounds of their real or perceived SOGIESC;
 - adopting or reforming legislation to protect against all forms of hate speech and discrimination, including that based on SOGIESC and disseminated online;
 - strengthening legislation to incorporate mechanisms for monitoring and reporting anti-LGBTI violence, asylum and police protection;
 - adopting legislation that prohibits harmful practices, such as so-called “conversion therapy” and intersex genital mutilation (IGM);
 - supporting gender-affirming procedures for legal gender recognition and appropriate health care for transgender people;
- The ending of impunity for acts of violence, whether committed by state or non-state actors, through laws that appropriately prohibit and punish all forms of violence and discrimination, including the targeting of persons based on their perceived or real SOGIESC;
- The promulgation of adequate regulations that ensure proper investigation and diligent prosecution of perpetrators of human rights violations and establish judicial procedures that protect victims;
- A review of domestic legislation regarding non-discrimination with the objective to harmonize it with existing regional and international obligations, and ensure the inclusion of SOGIESC as protected grounds from discrimination;
- Support from the Executive to ratify international human rights treaties, and implement and harmonize these treaties in domestic law (see section 2.2);
- The establishment of national human rights institutions that include SOGIESC within their mandate, and/or specific institutions with expertise on and a mandate to deal with LGBTI human rights and inclusion;
- Mainstreaming LGBTI issues by advocating to include LGBTI people in all legislative projects that may have an impact on LGBTI people’s lives, in line with the SDGs, e.g. by including non-discrimination on the basis of SOGIESC in non-discrimination law reform, alongside other characteristics such as race, ethnicity, gender, disability, etc.;
- The adoption of an intersectional perspective⁸³ in all legislative activities to ensure inclusive representation of the community;
- Building wider support from broad-based coalitions by looking for avenues for intersectional legislation.

⁸³ Intersectionality is a very important concept in LGBTI advocacy work (see section 1.1).



It took a little while not to be described by my sexuality, but over time, it did disappear. People kind of got used to the fact that you could be prominent and successful and, you know, also married to somebody of the same gender."

– Dr Kerryn Phelps, former crossbench MP, Parliament of Australia

7.1.3 In your oversight role

You can work to:

- Hold the government and its administration to account on human rights and inclusion of LGBTI people by asking the right questions in the right context; such questions can compel the government to provide informative responses that can then become entry points for further action (see section 9 for a list of model questions to direct to specific authorities);
- Ensure that national budgets allocate adequate resources to programmes and policies that address the diverse needs of LGBTI people;
- Include and promote the discussion of human rights and SOGIESC within the framework of existing regional cooperation mechanisms, and facilitate the exchange of information and best practices among member countries;
- Monitor the implementation of government policies and plans that advance equality and non-discrimination for all individuals, and ensure they specifically address the needs of LGBTI people;
- Monitor and oversee public institutions (including the police) on their training and actions related to LGBTI human rights and inclusion and, if significant concerns arise, consider calling for a parliamentary inquiry;
- Call on the government to protect LGBTI activists facing threats of violence or death;
- Identify systemic barriers to equality created by the implementation of particular policies, plans or laws;
- Guarantee the allocation of adequate resources for new and existing policies and laws that uphold respect for human rights of LGBTI people, and ensure their effectiveness;

- Partner with national human rights institutions and collaborate on bridging the gap between civil society and the government;
- Advocate for the systemic inclusion of CSOs representing LGBTI people's rights and interests in the work of committees dealing with those rights and interests;
- Promote a culture of compliance with reporting obligations under human rights treaties, protocols, special reviews, etc. (see section 2);
- Promote the inclusion of LGBTI people in national development plans and in SDG reporting, including by supporting the involvement of youth-led LGBTI organizations and movements in SDG implementation, monitoring and accountability;
- Engage with international organizations and mechanisms such as the UN's special procedures or regional organizations (e.g. African Union, EU) when they conduct a country visit or raise issues of concern or alleged violations with the government.

7.2 Work within parliament and with political parties

7.2.1 Within and across parliament

- Work to achieve a cross-party agreement, such as the “Pink ballot agreement” introduced in the Netherlands in 2012, whereby political parties sign a mutual agreement to address key LGBTI issues identified by civil society.⁸⁴ This helped secure visible commitment and support from political parties during election time.
- Use your profile as a public representative to create spaces for open conversations about SOGIESC issues, or facilitate those that may already exist.
- Ask that library and research facilities within parliament share publicly available knowledge and tools on SOGIESC issues, as the basis for informed, evidence-based dialogues that can displace statements based on prejudice and stereotypes.
- Promote parliament-led dialogue and partnerships that encourage inclusive, respectful and evidence-based discussions and debates.
- Challenge other MPs who advocate for discriminatory and exclusionary actions, policies and legislation, and take concrete steps to counter these actions.
- Address and oppose hate speech at the individual and collective levels, including through partnerships.
- Promote dialogue and tolerance, including sensitization campaigns among fellow MPs, to address discrimination and exclusion on the basis of SOGIESC.
- Support and respect LGBTI MPs, who are often present in parliament in very small numbers and may themselves experience discrimination, stigma and harassment, whether they are speaking openly about their SOGIESC or not.
- Build alliances in support of LGBTI MPs, engage in and model respectful dialogue and discussion, including respect for privacy, and promote collegiality in advancing LGBTI issues.

⁸⁴ COC Netherlands, [Lessons Learned. The Pink Ballot Agreement.](#)

- Speak up and advocate for institutional measures against hate speech and violence targeted at LGBTI MPs, including those you disagree with politically. Advocate for effective self-regulation within your parliament and political party to prevent and sanction hateful anti-LGBTI rhetoric on the part of MPs.
- Advocate that your parliament's rules encourage well-defined mechanisms to engage closely and consult with national gender equality and inclusion actors, including, where relevant, ministries, national human rights institutions, CSOs, including LGBTI organizations, and academia. Work to ensure that procedures for consultation, including submissions to committee inquiries, are well communicated, inclusive, respectful and user friendly.
- Talk to and learn from your peers in other countries who champion LGBTI inclusion. Parliamentary development partners such as UNDP, and networks of parliamentarians such as PGA, help facilitate inter-parliamentary exchanges and offer technical assistance.

7.2.2 Within your political party or group

- If there is not an open and ongoing conversation in your political party about LGBTI people and the issues they face, start informal discussions with like-minded colleagues and peers to explore ways to begin such a conversation.
- Build a knowledge base of accurate information that can inform party discussions.
- Work with like-minded colleagues to identify opportunities and openings to engage LGBTI issues more openly.
- Influence the platform of your political party to ensure that LGBTI people are regularly consulted, take part in the design, implementation and monitoring of laws, policies and programmes that affect them, and encourage them to join the party, run as candidates and vie for leadership positions within the party.
- Ensure that party affiliates – such as a youth or women's wing – support the endorsement of LGBTI candidates.
- Systematically invite LGBTI organizations and activists to take part in relevant party consultations, hearings, etc.
- Establish or take part in cross-party caucuses and committees to advance LGBTI human rights and inclusion (see section 4).

Good practice: cross-party caucuses on LGBTI human rights

North Macedonia: Inter-party group on LGBTI rights

European Parliament: LGBTI Intergroup

Poland: Polish Intergroup on LGBT+ rights

United States: Congressional LGBTQ+ Equality Caucus

United Kingdom: All Party Parliamentary Group

(APPG) on Global LGBT+ Rights

New Zealand: Parliamentary Rainbow Network



Welsh Parliament Members, LGBT Allies and the LGBT network raising the rainbow flag for LGBT History month. Credit: Senedd Cymru / Welsh Parliament

7.3 Be a leader in your community

You can build alliances across civil society:

- Identify organizations that are working on equality and non-discrimination in your country; explore ways to collaborate with them to advance human rights for all individuals, regardless of their SOGIESC. For example, organize a meeting where activists can speak about their needs and challenges with your colleagues and peers.
- Build and maintain a working relationship with CSOs that serve LGBTI communities to facilitate the sharing of relevant information and increase cooperation among stakeholders.
- Use your leadership role to speak out against discrimination in the media and participate in activities hosted by LGBTI organizations.
- Advocate for open discussions, sensitization training and education campaigns on SOGIESC in the community to combat prejudice against LGBTI people.
- Become a public champion who advocates for the rights and inclusion of LGBTI people and encourage other popular figures, influencers and role models (from sports, the arts, public life) to do the same.
- Visibly support and advocate for the LGBTI community, by supporting or taking part in local Pride and other LGBTI festivals and events.
- Promote dialogue and partnerships between parliament and broad-based civil society coalitions comprising organizations across the human rights spectrum (e.g. working on LGBTI human rights and inclusion, women's rights and empowerment, anti-racism, the rights of indigenous people, disability rights, sustainable development, youth empowerment, freedom of religion and faith, etc.).
- Develop and sustain partnerships and dialogue with progressive public opinion leaders, including religious leaders, faith-based entities, and community and traditional leaders, and host dialogues on LGBTI human rights and inclusion.
- Facilitate cooperation between LGBTI human rights organizations and political leaders.

The importance of engaging with civil society

Constructive dialogue with CSOs leads to trust-building on both sides, which is an essential pillar of information and data sharing in cases of violence and abuse. This includes testimonies from survivors, which parliamentarians can use to gather important feedback, develop inclusive laws, and refine strategies and action plans on equality and non-discrimination.

Involvement of LGBTI communities in policy-making is key to successful, efficient and effective policies. Parliamentarians should not rely on “intuitive thinking”: “LGBT[I] persons have in many cases developed particular mechanisms for survival, coping and thriving that will not be immediately evident to those not belonging to their communities or having interacted with them over time.”

- Protection against violence and discrimination based on sexual orientation and gender identity, Note by the Secretary-General (A/75/258), 28 July 2020.

Moreover, cooperation between parliamentarians and CSOs sends a powerful message to the broader public that representatives and constituents can work together to protect the human rights of all individuals, regardless of their SOGIESC. The relationship between parliament and civil society contributes to parliament’s oversight duties and can help forge a national consensus on human rights.

- Inter-Parliamentary Union (IPU) and United Nations (Office of the High Commissioner for Human Rights), *Human Rights, Handbook for Parliamentarians*, No. 26 (IPU, 2016).

7.4 Internal party actions: party manifestos and support for LGBTI candidates

7.4.1 Political party manifestos

Integrating the human rights and inclusion of LGBTI people and related issues into political party manifestos gives MPs much-needed political ammunition for parliamentary action.

A political party’s manifesto outlines the party’s position on issues and political promises, listing the policy changes it will seek to make. Once in parliament, you can refer back to the party manifesto while working towards policy promises that were endorsed by voters. You will have the backing of your constituents to demand action by the government and to engage with groups and experts that can advise on policy.

Many activist groups are turning towards political party manifestos as a means of securing political support for action on LGBTI issues. This strategy has huge potential for breaking political ground but is difficult when public perceptions of LGBTI issues remain poor. Not every attempt to integrate LGBTI issues in political party manifestos has been successful; however, it is encouraging that efforts have been made within some political parties. For example:

- In **India**, Congress MP Sushmita Dev was the first MP to consult the LGBTI community when drafting a political manifesto;⁸⁵
- In **Scotland**, several parties have included LGBTI human rights in their election manifestos over the past decade, publicly committing to undertake legal and policy action to foster LGBTI inclusion;⁸⁶

⁸⁵ [DNA, Queer community finds voice in party manifesto](#), 22 January 2019.

⁸⁶ [Stonewall, Scottish parliament election: What the manifestoes say on LGBTI equality](#), 23 April 2021.

- In **Peru**, three of the 23 political parties included concrete proposals for LGBTI inclusion in their manifestos during the 2021 presidential elections.⁸⁷

While it can be a highly effective strategy to urge political parties to include LGBTI initiatives in their party manifestos, it is not always easily achieved. To increase their chances of success, activist groups may turn to building grass-roots campaigns that make LGBTI issues of political interest to those seeking election. Support (or, at the very least, sympathy) for the LGBTI community is growing in a large number of countries, and politicians are not blind to this trend.

Persuading politicians and political parties of the potential electoral gains from supporting LGBTI rights and the concerns of LGBTI people could help secure much-needed parliamentary action.

7.4.2 Openly LGBTI candidates and their non-LGBTI allies

Political parties may choose to support LGBTI candidates at the local, national or regional level. **When LGBTI people run for elections, they are not only the subject of political, legislative and policy debate and action: they become actors of change.**

By ensuring representation of LGBTI people within them, political parties can foster the full participation of LGBTI people in public life and political debates and strengthen democratic processes. Furthermore, by becoming public figures, LGBTI candidates can act as positive role models and inspire the LGBTI community to make its voice heard.

It will not always be safe for people who are openly LGBTI to run for elections in all contexts.⁸⁸ Even when candidates do stand, they are more likely to face public outcry and abuse than their counterparts. LGBTI candidates' safety must be paramount, both within and outside political parties, to ensure they can develop their potential and contribute to debate.

It is also important not to idealise or stereotype LGBTI candidates for elective office. Some will act as effective and committed activists for inclusion. Others will not. It would be tokenistic, and could do harm, to nominate candidates merely on the basis of their identity. They need to understand and agree to advance the relevant issues, be electable, and act effectively once elected. Moreover, it is not the exclusive responsibility of LGBTI people to advance their inclusion and human rights: non-LGBTI allies, who will always be in the numerical majority, need to be supportive. Conversely, elected LGBTI officials should not be expected to advance only reforms relevant to their own groups and communities. Like every other office-holder, they have a general mandate.

The Victory Institute: Training LGBTI people to run for elections and hold public office
The Victory Institute supports LGBTI candidates running for election in and outside the United States by providing leadership development, training and networking opportunities. It supports MPs and CSOs in the Balkans, Colombia, the Dominican Republic, Honduras, India, Peru and South Africa.⁸⁹

The "Rainbow quota": Obliging political parties to have LGBTI candidates in Mexico
In the 2021 legislative elections in Mexico, more than 100 LGBTI people ran as candidates, the largest number in Mexico's history.⁹⁰ This followed an order from the State Electoral Tribunal demanding political parties and coalitions include quotas of LGBTI people in their lists as part of their affirmative action efforts.⁹¹ Among those elected were two trans women, Salma Luévano and Maria Clemente Garcia, who now sit in Mexico's Parliament.

⁸⁷ [La República, Elections 2021: 12 government plans do not mention the LGBTIQ + population](#), 25 January 2021.

⁸⁸ [NBS News, Tunisia has its first openly gay candidate for President](#), 14 August 2019; [Hugo Greenhalgh, Prominent Tunisian LGBT+ activist flees death threats](#), Reuters, 10 January 2020.

⁸⁹ [Victory Institute, International Leadership Program](#).

⁹⁰ [NPR, More than 100 LGBTQ candidates are competing in Mexico's election](#), 3 June 2021.

⁹¹ [Milenio, Parties must include LGBT people in nominations](#), 15 February 2021.

Unfortunately, until now, our political initiatives (as LGBTI people) did not go through because we were not represented in decision-making spaces. Decision-making spaces were closed to LGBTI people. Thanks to the Rainbow quota, we now have this representation. We can push forward progressive legislation and policy for our community.”

– Salma Luévano, openly trans MP, Mexico

7.5 Parliamentarians for Global Action: Empowering parliamentarians to foster LGBTI inclusion

PGA is the largest non-governmental, multi-party international network of individual legislators, with approximately 1,200 members in 132 elected parliaments around the world. This global network of parliamentarians acting in their individual capacity is supported by a PGA National Group structure in parliaments, which creates sustainability and ownership of issues at the national level, and by a Secretariat with relevant expertise. PGA is in general consultative status with the Economic and Social Council of the United Nations and has its headquarters in New York. Its office in The Hague fosters cooperation with the Hague-based international organizations, including the International Criminal Court (ICC).

With a 40-year track record of results, PGA informs and mobilizes its members to advocate for human rights and the rule of law, human security, peace, inclusion and gender equality. PGA connects parliamentarians with each other across countries and with civil society representatives and human rights experts and provides parliamentarians with tools and evidence-based information about key issues that can contribute to inspire parliamentary action for the protection of human rights.

Through its [Campaign against Discrimination based on Sexual Orientation and Gender Identity](#) (SOGI Campaign), PGA seeks to educate, sensitize, build the technical capacity and strengthen the political will of parliamentarians in order to take ownership, concrete initiatives and legislative actions that achieve equality and inclusion of LGBTI people. Since its inception in 2013, PGA has positioned itself as the parliamentary partner of LGBTI CSOs around the world, facilitating collaboration and encouraging its member parliamentarians to support and champion LGBTI-affirming legislative reforms, including decriminalization of consensual same-sex conduct, in Angola, Barbados, Bolivia, Chile, El Salvador, Mozambique, Nepal, Pakistan, Seychelles and Uruguay.

PART IV

FURTHER GUIDANCE

This Part provides sensitive and practical guidance on speaking about LGBTI people and their rights, including how to adapt to specific local contexts and conditions, along with practical advocacy tools and model questions to ask of government, parliament, other decision-makers and policy makers, for use in your oversight role as an MP.



DEMONSTRATING IGNORANCE OF LGBTI HUMAN RIGHTS, LET ALONE HOMOPHOBIA, TRANSPHOBIA, INTERPHOBIA OR HATE SPEECH – EVEN INADVERTENTLY – IS LIKELY TO ADVERSELY AFFECT YOUR INTERNATIONAL REPUTATION AND TO PRECLUDE OR SUBSTANTIALLY LIMIT YOUR OPPORTUNITIES TO INTERACT WITH REGIONAL OR GLOBAL POLICYMAKERS. ON THE OTHER HAND, TAKING A RIGHTS-DRIVEN, SENSITIVE, AND SENSIBLE APPROACH TO LGBTI ISSUES CAN BOOST YOUR POLITICAL CAREER, DEMONSTRATE YOUR POLITICAL LEADERSHIP, AND ATTRACT INTERNATIONAL RECOGNITION AND SUPPORT FOR YOUR WORK.

8. Speaking about LGBTI human rights and inclusion

It is important to know how to speak about the rights of LGBTI people and the issues affecting them. Using appropriate, respectful and sensitive language is part of being a good and effective MP, when you engage with your constituents and community, or represent your country as a member of parliamentary delegations to regional and international forums.

In some contexts, anti-LGBTI discourse is widespread, and even normal. Knowing how to respond to such discourse, and to myths about LGBTI people, is as important as using appropriate language (see section 8.5).

“Growing up in the Republic of Korea, we didn’t talk about sexual orientation or gender identity. But as Secretary-General of the United Nations, I learned to speak out because this is a matter of life and death. I stand with the gay teen who is bullied ... the transgender woman denied work ... the lesbian subjected to vicious sexual assault.”

— Former UN Secretary-General Ban Ki-moon, remarks at the High Level LGBT Core Group Event, "Leaving No-One Behind: Equality & Inclusion in the Post-2015 Development Agenda," New York, 29 September 2015.

8.1 How to speak effectively about LGBTI issues

- Know the appropriate terminology for the context you are in. The acronym we use here, LGBTI, is far from universal (see section 1.1), so other terms may be preferred. LGBTI people are often talked about in derogatory and discriminating terms, and even the tone used may be hurtful and disempowering. Respect those you are speaking with – use the words they want to be referred to by, and adopt the same respectful tone that you would use with any other constituent group.
- Be ready to use your skills as an advocate to choose the most impactful opportunities to dismantle and respond to anti-LGBTI discourse and myths about LGBTI people (see 8.5).
- Make contact with local and national LGBTI organizations and activists, where they exist, to learn the history of LGBTI issues in the community and country you are speaking or acting in, and the most appropriate terminology to use. Where possible, contact organizations that focus their work on a specific group of LGBTI people (e.g. transgender, lesbians, intersex, etc.); they have the most in-depth knowledge about the situation and needs of that particular group and may share it with you.

- Remember that acronyms and words that designate LGBTI people are more than theoretical concepts but are descriptions of actual people – your fellow human beings. Engage LGBTI people and advocates on how to ensure that the vocabulary and tone you use are as close to their realities as possible.
- Instead of having “experts” or officials always advising you, prioritize empowering LGBTI people to talk about themselves, the hardships they face, the expectations they have of policymakers, and their hopes and dreams for the future. You can help amplify the voices of LGBTI advocates and their families and help ensure that their dignity is respected.
- Be authentic and appeal to universal values. **Remind your audiences that discussions on LGBTI issues concern everyday people (like their neighbour, their child, their sister) who want the same chance as anyone else to pursue health and happiness, earn a living, be safe in their communities, serve their country, and take care of the people they love.** Use the language of commonly shared experiences and values, hopes and beliefs that is appropriate to the context in which you speak: perhaps language around family, love, work, responsibility, commitment, contribution, sacrifice, duty. These are common values shared by all people, regardless of their SOGIESC. Discourse that seeks to exclude LGBTI people from these values is never acceptable.
- Know your audience. Discussing legislative proposals during parliamentary sessions requires particular terminology, while talking to voters and constituents is likely to require a completely different use of language. Focusing on legal concepts and policy distinctions is not the best approach for engaging constituents at a local town hall meeting. Instead, use everyday examples. Emphasize that advancing the rights and inclusion of LGBTI people is about removing unfair barriers that prevent them from getting an education, being able to find decent work where they are not harassed, or keeping them safe from violence so that they can live in dignity and fulfil their obligations to others – their loved ones, families, friends, neighbours, community and country. Note that excluding them diminishes everyone.
- Talk about LGBTI people, their families and allies – taking into account the environment you are in and always considering confidentiality issues. Tell emotionally compelling stories that draw attention to the real lives of LGBTI people: committed couples who have taken care of each other in sickness and in health, LGBTI employees who provide for their families and loved ones, those who are exemplary members of their community, or family members who are supportive of their LGBTI children and relatives.
- Illustrate concrete harms that discriminate against and exclude LGBTI people. Focus on important injustices and, where possible, illustrate them with compelling stories that show how existing laws or practices have unfairly targeted and hurt LGBTI people.
- Don’t attach labels to people without their permission. Always try to ask how they define themselves and respect and use their identity and pronouns.⁹²
- Form, join or support a parliamentary caucus of supportive MPs on the human rights and inclusion of LGBTI people in your local/country context. Engage the caucus in discussion with relevant stakeholders, such as CSOs, rights groups, activists, academics, subject matter experts, etc.

⁹²Pronouns (see the Glossary) are the way we refer to someone without using their name. In some languages, pronouns are necessarily gendered. In English, for example, common pronouns are “he” or “she”, or the gender-neutral “they”. Rather than assuming what a person’s pronouns are, ask them directly so that you can respect their identity.

8.2 How to ensure that your discourse will be appropriate to the context

8.2.1 Sexual orientation and gender identity diversity within local cultures and traditions in Asia and the Pacific⁹³

Concepts of sexual orientation and gender identity vary greatly across the Asia and Pacific region. In most cases, these diverse communities, identities and expressions have origins in long-established local cultures and traditions. These communities experience varying degrees of acceptance by contemporary society. Examples of local identities are:

- Cross dressers, intersex and trans women are referred to as *hijras* (India and Bangladesh), *thirunangais* (Tamil Nadu) and *khwaja siras* (Pakistan); they have been part of South Asian cultures for centuries and have recently been recognized by law as a third gender.
- The Bugis people of Sulawesi, Indonesia, recognize five gender categories: male; female; *calalai* (female-born persons who identify as neither woman nor man); *calabai* (male-born persons who identify as neither man nor woman); and *bissu* (shamans who embody female and male elements).
- Pacific island countries also have unique communities, including people assigned a male sex at birth who identify either as having a gender identity or expression that is female or who exhibit both feminine and masculine traits. These include the *fa'afafine* in Samoa, *fakaleiti/leiti* in Tonga, *akava'ine* in Cook Islands, *vakasalewalewa* in Fiji, *pinapinaaine* in Tuvalu and *mahu*⁹⁴ in French Polynesia. Males who identify with these groups often assume female roles in the family and are usually broadly accepted as part of society, although some may experience stigma.
- Pacific activists have developed their own terminology to describe their movements. Instead of the LGBT+ label, activists refer to the rights of Pacific Islanders of Diverse Sexual Orientation and Gender Identity and Sex Characteristics (PIDSOGIESC+). Pacific NGOs use this term to recognize the range of cultures and communities within the region, including many traditional third gender communities and those who may not identify as LGBT+.⁹⁵
- Indigenous populations in Australia and New Zealand also have culturally specific gender identities, including *whakawahine* in New Zealand, “sistagirls” and “brother boys” in Australia and *yimpininni* in Tiwi Islands (Australia).

There are hundreds of local terms used to describe sexual orientation and gender identity sub-cultures in societies across the region. Terms typically have meanings that combine aspects of both sexual orientation and gender identity or gender expression. Sometimes these terms are considered derogatory, depending on the context, and are used to varying degrees within communities.

⁹³ Contributed by the UNDP programme “Being LGBTI in Asia”.

⁹⁴ *Mahu* has also been used traditionally to identify intersex people, in particular in Hawaii, as testified by the birth of a Hawaiian King who was born intersex, according to 18th-century historian Davida Malo: [Hawaiian Antiquities: Moololo Hawaii](#) (Hawaiian Gazette, 1903), p. 333.

⁹⁵ Charmaine Rodrigues, *A Fairer Future: Law Reform and Advocacy Opportunities for Women's and PIDSOGIESC+ Rights in the Commonwealth Pacific* (Royal Commonwealth Society, 2019).

Alongside local identities, there are communities, concentrated mainly in urban areas, whose identities correspond more closely with Western subcultures of lesbians, gay men, bisexual and transgender people.

Make it a priority to engage with local LGBTI people, communities and rights organizations. You will learn much about the local context and conditions in which they live, and will have more effective conversations while you are in their country and on your return to parliament.

8.3 Conversations about LGBTI inclusion and faith

You might be reluctant to defend and promote the rights and inclusion of LGBTI people, or even engage in public conversations about this topic, because you know you will face criticism from constituents, political opponents and others. Such criticism is often inspired or framed by the arguments of fundamentalist groups who consider themselves arbiters of social morality and family values.

You can respond effectively to those opposed to equal rights for all by using the language and values of faith, family, community and culture to promote inclusion, dignity and equality. The following examples of positive arguments and messages have been assembled by organizations whose work focuses on religion, faith, sexuality and gender identity.⁹⁶



Our ancestors had an ability to reconcile the demands of the faith and the demands of the flesh and we need to recapture that spirit and reinterpret it for our age.”

— Shereen El Feki, “[Sex and the Citadel](#)”, lecture delivered at the Centre for International Governance and Engagement (CIGI), 29 March 2013.

8.3.1 Universal arguments and messages that have been used successfully to promote LGBTI inclusion

- **Religion’s sacred texts affirm the intrinsic value of all of creation.** All religious traditions oppose the marginalization of any human being. Any violation of human rights or act of exclusion, discrimination or harm against any person or group violates this fundamental belief.

⁹⁶ This section draws primarily on a contribution from the Global Interfaith Network: For People of all Sexes, Sexual Orientations, Gender Identities and Expressions (GIN-SSOGIE) with supporting information from various sources, as referenced in the text.

- **The family has always been defined widely, both historically and in sacred texts.** The definition of the “natural family” contradicts the actual diversity of family life. In Africa, family is a more inclusive term, best understood through the concept of *ubuntu*, a fundamental ethic of African traditional society, that holds that you can only be whole if you embrace the humanity of others. Archbishop Desmond Tutu preached that *ubuntu* includes everyone, regardless of race, social status, or sexual orientation and gender identity: it “speaks of the very essence of being human ... It is to say, 'my humanity is caught up, is inextricably bound up, in yours'”.⁹⁷
- **The diverse models of family** into which people are born, married (formally or informally), partnered, adopted or invited **are all real and legitimate.** Family has always evolved and today manifests itself in many forms, including the nuclear family, wider family (incorporating close relatives), cross-generational (grandparents–grandchildren) family, single parent (mother/father/caregiver) family, LGBTI or Rainbow family (including same-sex parents), child-headed family and childless family.
- **“Do no harm”** is a core life-affirming principle. The fundamental ethos of all religions promotes love, understanding and compassion as contributing to the welfare of humanity.
- **Freedom of religion is the freedom to have and practise a religion, as well as the freedom not to.** No member of society, religious or otherwise, is entitled to harm others on the basis of their own beliefs, including by enacting laws and policies that discriminate against people they might not personally like or support.
- **Religious freedom/freedom of consciousness is a fundamental human right that applies to all people, including LGBTI people.**
- **People interpret sacred texts differently.** Opponents of LGBTI issues may use a sacred text as the basis for espousing and defending their position and influencing others. Anti-LGBTI preaching typically relies on patriarchal and homophobic interpretations of scripture to forbid non-heterosexual relations or non-normative gender distinctions. This form of preaching is difficult to counter as a challenger will be condemned for, in effect, challenging the Almighty. Considering the literary and social context within which a text was written can help you open discussion on its historicity and relevance in contemporary society, given our current understanding of LGBTI issues.⁹⁸
- **No sacred text condemns loving, committed, respectful sexual relationships between adults in a faithful marriage relationship** – whether homosexual or heterosexual.

8.3.2 Arguments and messages that have been used successfully to promote LGBTI inclusion in some African contexts⁹⁹

- **Sexual and gender diversity has always been present in African cultures.** This has been demonstrated by many scholars and writers. Indeed, in African traditions, which are diverse and evolving, sex characteristics, sexual orientation and gender identity were never reasons for exclusion from family and community life

⁹⁷ See Desmond Tutu Peace Foundation, *Mission and Philosophy*.

⁹⁸ Inclusive and Affirming Ministries (IAM), *Best Practices in Training Clergy & Other Religious Leaders* (Cape Town).

⁹⁹ Drawn substantively from *Silent No Longer: Narratives of Engagement Between LGBTI Groups and Churches in Southern Africa* (Johannesburg, The Other Foundation, 2017).

- **Anti-LGBTI rhetoric is based on false argument, fearmongering and divisiveness.** Anti-LGBTI rhetoric often uses the lens of “us versus them”; it presents Africa as a bastion of religious faith in a secularizing world and declares that homosexuality has been “imported” as part of a larger plot by the West to secularize Africa. It denies the fact that sexual and gender diversity have always been present in African cultures.
- **African culture should not be romanticized as communal, homogeneous and unchanging.** Those who romanticize Africa in this way cast LGBTI people as individualistic, taking on western ideals and undermining so-called “African culture”. In fact, sexual and gender diversity has always existed and African traditions are diverse and evolving.
- **Sex and sexuality cannot be equated with criminality.** The narrative of “homosexuality as sin” was introduced in the colonial era and is regulated by Penal Codes that still exist today, denying LGBTI people full realization of their rights.¹⁰⁰
- **Recent forms of homophobia in Africa are driven by imported ideologies.** Homophobia has been rising in the past decade, driven by conservative American evangelical movements that have recruited prominent African religious leaders to their global campaign to restrict the bodily autonomy of women and LGBTI people.¹⁰¹

8.3.3 Arguments and messages that have been used successfully to promote LGBTI inclusion in some Asian contexts

- **The acceptance of diverse sexual orientations, gender identities and expressions is present in traditional values around the world, including in Asia, and has been the case for hundreds of years.** Same-sex relations and gender fluidity feature prominently in ancient Indian texts and sculptures. For example, the Narada-smriti (a Hindu text) acknowledges the existence of homosexual people and suggests they should not be forced into heterosexual marriage.
- **In Hinduism, gods and sacred deities commonly bend gender norms and manifest multiple combinations of sex throughout sacred texts.** There are Hindu deities that are male, female or third sex, and deities that manifest all three.
- **Diversity of family and community models is central to Asian traditions.** Many regions of Asia have inclusive, family-centric cultures, including non-binary genders. Asian families are anchored in love and respect for all individuals within the family unit. This diversity and inclusivity must be reflected within the human rights system.

¹⁰⁰ Melanie Judge, *Keeping the Faith: Working at the Crossroads of Religion and Sexual & Gender Rights. A Discussion Paper on Critical Issues, Actors, Initiatives and Opportunities* (Cape Town, Heinrich Böll Stiftung, 2019).

¹⁰¹ Political Research Associates, *Globalizing the Culture Wars: U.S. Conservatives, African Churches, and Homophobia*, 1 December 2009.

8.3.4 Arguments and messages that have been used successfully to promote LGBTI inclusion in a Latin American and Caribbean context

- **The concept of family has been a political weapon of exclusion and marginalization for diverse families in the region.** The modern Western, heterosexual, monogamous, bourgeois, nuclear family model has been exported to other regions around the world, mainly through religion, and imposed as the norm. The exclusive use of this model of the family has frequently been used as a political weapon by local actors, enforced through violence.
- **A democratic, secular State values diverse religious practices as part of the country's culture.** In Latin America and the Caribbean, history has given rise to various modes of cultural and religious human expression. Those who oppose the rights of LGBTI people have used decontextualized interpretations of religious texts and traditions as the basis of their arguments. This is counter to human rights and the principle of secular democracy.

8.4 Economic arguments for LGBTI inclusion

Economic arguments present important and increasingly evidence-based entry points for MPs to push for inclusion, support progressive legislation, and complement rights-based arguments. Cost-based arguments for the health and well-being of LGBTI people can support the general case for action to tackle health inequality, especially when addressing skeptical audiences such as finance ministers and other public policymakers outside the health sector for whom health inequality is not the primary concern.

Businesses can be powerful allies in promoting human rights and LGBTI inclusion. Using your position of influence as an MP, you can help spread awareness of, and push for, inclusive business practices.



If we are to achieve faster global progress towards equality for lesbian, gay, bi, trans, and intersex people, businesses will not only have to meet their human rights responsibilities, they must become active agents of change.”

– Zeid Ra'ad Al Hussein, UN High Commissioner for Human Rights

A growing body of research shows the positive impact that LGBTI inclusion has on a country's economic development. International organizations such as the World Bank, OECD and OHCHR have conducted in-depth research on the topic in recent years.

The key arguments supported by research are as follows:

ARGUMENT	BACKGROUND
<p>General</p>	
<p>Human rights violations, discrimination and violence towards LGBTI people have an impact on a country's economy at the micro level.</p>	<p>The costs to the economy include lost labour time, lost productivity, underinvestment in human capital, and the inefficient allocation of human resources through discrimination in education and hiring practices.</p>
<p>Human rights violations, discrimination and violence towards LGBTI people have an impact on a country's economy at the macro level.</p>	<p>The decreased investment in human capital and suboptimal use of human resources act as a drag on economic output at the broader economy level.</p>
<p>Education</p>	
<p>Under-performance and drop-outs significantly reduce LGBTI adults' later access to work opportunities that fit their capacity and potential and might, in some cases, drive them to the informal workforce.</p>	<p>More often than not, schools are not safe environments for LGBTI children and children in diverse families. Bullying is prevalent and schools are often ill-equipped or, in hostile environments, unwilling to address the problem. The lack of safe and inclusive school environments leads to underperformance and dropping out.</p>
<p>The physical and mental health consequences of exclusion and bullying bear their own economic costs (see economic argument for health).</p>	<ul style="list-style-type: none"> ● For intersex children, many complex issues put their education at risk, including multiple treatments throughout childhood, stigma, discrimination and fear. ● For transgender and gender-non-conforming children, the lack of supportive school environments (allowing children to wear certain clothes or be called by their chosen name and pronouns) also leads to underperformance, dropping out and exclusion when they refuse to conform to gender norms. ● In some contexts, enrolment is refused to children from Rainbow families

ARGUMENT	BACKGROUND
<p>Work</p>	
<p>LGBTI people may be refused employment or fired when discovered to be LGBTI. Such discrimination causes them to be unemployed or underemployed, which means their full productive capacity is not being used.</p>	<p>LGBTI people face forms of violence, exclusion, discrimination and harassment in society in general, and, in particular, throughout the employment cycle: from education to access to employment, conditions of work and security of employment.</p>
<p>Workplace bullying and violence are detrimental on the mental health and well-being of LGBTI people, and impact on their performance and career development prospects, creating conditions for absences from work and even high turnover rates.</p>	<p>Research undertaken by the ILO in Argentina, Costa Rica, France, Hungary, India, Indonesia, Montenegro, South Africa and Thailand points to the prevalence of discrimination against LGBTI people in the workplace on the basis of their sexual orientation and/or gender identity, both in relation to hiring practices and throughout the employment cycle.</p> <p>In extreme cases, this may “result in LGBTI workers being bullied, mobbed, and sexually or physically assaulted”.</p> <p>Lesbian, gay and bisexual people reported facing stereotyping and invasive questioning in the workplace regarding their sexuality, as well as pressure to conform to stereotypes of masculine or feminine dress and mannerisms. Transgender people reported high rates of exclusion from formal employment, discrimination and harassment in the workplace, and discouragement from using bathrooms appropriate to their gender. This is exacerbated for transgender people whose documentation does not match their identity. Discrimination and exclusion from the formal economy leaves many with no option but to work in the informal economy and unregulated sectors, which increases the risk of exploitation and abuse.</p>

ARGUMENT	BACKGROUND
<p>Health</p>	
<p>Countries have an interest in protecting and guaranteeing the human rights of LGBTI people to reduce not only health inequalities but also the costs these engender.</p>	<p>A significant consequence of discrimination, social exclusion and stigmatization faced by LGBTI people is health inequality. There is substantial evidence that the social determinants of health, the non-medical factors that influence health outcomes (WHO), such as discrimination and social exclusion, together with the lack of knowledge, sensitivity or outright hostility towards LGBTI people in the health sector, contribute to and reinforce LGBTI health inequalities.</p>
<p>LGBTI health inequalities are costly in human terms, e.g. in premature death and reduced life expectancy (burden-of-disease approach).</p>	<p>Poor health outcomes start from an early age: school bullying with physical or psychological violence targets children who are, or are perceived to be, LGBTI and children in diverse families. For intersex people, poor health outcomes start from birth. Unconsented, non-emergency and irreversible surgeries and other medical interventions throughout childhood are a form of violence that undermines children's rights to bodily integrity and puts their lives at risk, as does the absence of supportive care for transgender children. Consequently, poor mental health, suicidal ideation and suicide attempts are high among LGBTI children and children in diverse families, which they carry into adulthood.</p> <p>Men who have sex with men (MSM) and trans women form part of the broad key populations grouping in HIV responses, i.e. groups of people who are at higher risk of HIV infection, and whose engagement is critical to a successful HIV response. Although they are a small proportion of the general population, key populations and their sexual partners accounted for over 60 percent of new adult HIV infections globally in 2019.</p>
<p>LGBTI health inequalities are costly in monetary terms. Individual life and health have an intrinsic monetary value, and have monetary effects on economic production and government budgets (such as health budgets) (cost-of-illness approach).</p>	

ARGUMENT

BACKGROUND

Business

Violence and discrimination against LGBTI people cannot be ended by governments alone. Businesses can foster diversity and promote a culture of respect and equality, in both the workplace and the communities where they and their business partners operate.

Actively tackling discrimination and promoting diversity and inclusion also brings economic benefits, helping tap new talent, improving decisions and building loyalty with customers and investors alike.

8.5 How to respond to myths about LGBTI people

Public opinions and comments made about LGBTI people often denigrate them, even if inadvertently, and undermine their rights. Many such comments are based on common myths. You can respond to these comments and shatter the myths from a human rights standpoint.

Think about how many of the statements you read and hear about LGBTI people deny reality – in fact, much of what is written and said is nothing but myth. You can frame appropriate, human-rights-based responses to such statements. Pay attention to how your colleagues in parliament talk about LGBTI people and how LGBTI people are portrayed in the media, and respond accordingly. Where there are local LGBTI CSOs, consult them for guidance.

MYTH	REALITY
<p>Homosexuality is a “Western phenomenon.”</p>	<p>This is false. LGBTI people exist everywhere – in all countries, among all ethnic groups, at all socioeconomic levels and in all communities across the world, and have done for a very long time.</p> <p>What is true is that many of the laws that continue to criminalize and punish LGBTI people in many countries are Western in origin and a legacy of colonialism. This remains the case, even though most of those same former colonial powers no longer have these same discriminatory laws in place in their own countries, having replaced them with legislation that promotes equality.</p>
<p>Being LGBTI is incompatible with religion and faith (or a specific religion); it goes against God.</p>	<p>This is false. See section 8.3, “Conversations about LGBTI issues and faith”, which elaborates on the many arguments that can be used to counter this myth.</p>
<p>Depriving LGBTI people of their human rights can be justified on grounds of religion, culture or tradition.</p>	<p>Discrimination on the basis of SOGIESC can never be justified on any basis. Human rights are universal: every human being is entitled to the same rights, no matter who they are or where they live. History, culture and religion are all very important, but all States, regardless of their political, economic and cultural systems, have a legal duty to promote and protect the human rights of all. This includes LGBTI people.</p> <p>Religious freedom gives us the right to hold our own beliefs (or not to), but it does not give us the right to impose our views on others, including by discriminating against or otherwise harming them.</p>

MYTH	REALITY
<p>LGBTI people are “not normal”; they are a creation of the modern age; being LGBTI is a “trend”.</p>	<p>SOGIESC are not “current trends”. Almost every country has a recorded history of people whose identities, diverse bodily manifestations and behaviours bear close resemblance to what we call today heterosexuality, bisexuality, homosexuality, intersex and transgender identities. Equally, people with variations of sex characteristics display natural and diverse bodily manifestations that have always existed within the human species.</p>
<p>LGBTI people are requesting “special rights” (some say, at the expense of everyone else’s rights).</p>	<p>This is not true. There are no special rights being claimed by or for LGBTI people. They are entitled to enjoy the same human rights and fundamental freedoms to which every human being is entitled. Regrettably, these rights and freedoms are denied to millions of people around the world just because of their SOGIESC. This is why there is a need for a specific focus on ending discrimination on the basis of SOGIESC and ensuring the inclusion of all LGBTI people.</p> <p>LGBTI inclusion is about ensuring equal access to human rights for everyone, not favouring one group over another.</p>
<p>Being LGBTI is a private matter. There would be no need to enact laws for LGBTI people if they kept their identity and practices to themselves</p>	<p>Every human being has sex characteristics, a gender identity and a sexual orientation. Only LGBTI people are discriminated against and persecuted for theirs, blamed for the violence they suffer and asked to hide. Cisgender, endosex (non-intersex) and heterosexual people can socialize freely without needing to hide who they are. LGBTI people have the right to do the same.</p>
<p>Criminalizing homosexuality is a good idea.</p>	<p>Criminalizing private sexual relationships between consenting adults, whether the relationships are homosexual or heterosexual, is a violation of the right to privacy, dignity and bodily autonomy, is discriminatory in nature and violates international human rights law. When enforced, these laws violate rights to freedom from arbitrary arrest and detention. Criminalization serves to legitimize hostile attitudes towards LGBTI people, feeding violence, discrimination, extortion and blackmail. Enforcing these laws costs a lot of money and brings no social value.</p>

MYTH	REALITY
<p>By repealing laws that criminalize consensual same-sex activity we are “promoting homosexuality.”</p>	<p>Promoting the equal rights of lesbian, gay and bisexual people is not “promoting homosexuality” – it is highlighting that the same fundamental human rights apply to everyone. These are core values that all UN Member States are obligated to uphold.</p> <p>Furthermore, removing a criminal sanction does not signal official approval; it merely ensures that people are not put at legal risk for loving who they choose to.</p>
<p>If we decriminalize same-sex activity, it will inevitably lead to public displays of affection that are culturally unacceptable, and require same-sex marriage.</p>	<p>Decriminalization generally only protects the right to consensual sexual activity in private. Cultural mores evolve, even if gradually and even within a traditional framework. Some countries that have decriminalized have found that this has helped move public opinion sufficiently that what is culturally acceptable changes over time. Eventually other legislation – such as for marriage equality – may become less controversial over time. However, that progression is a separate and deliberate legislative choice requiring specific further action by parliament.</p>
<p>MPs should follow public opinion when there is overwhelming public support for punitive laws against LGBTI people.</p>	<p>MPs’ primary responsibility is to advance the human rights and inclusion of all people, no matter how unpopular that might be in relation to LGBTI people.</p> <p>Negative public attitudes can never justify human rights violations, including punitive laws, police harassment and brutality against LGBTI people, any more than they can justify sexist, racist, ableist, xenophobic, sectarian and other discriminatory acts or policies.</p> <p>When there are discriminatory attitudes against certain groups, it is the responsibility of MPs and others to work to overcome such attitudes through public education, awareness-raising and other measures.</p>

MYTH	REALITY
<p>There is nothing in international human rights instruments about LGBTI people, so they do not apply.</p>	<p>This is false. Quite the contrary, international human rights law applies to every person. International human rights law establishes legal obligations on States to make sure that everyone, without distinction, can enjoy their human rights. A person's SOGIESC are a status, like race, sex, skin colour and religion.</p> <p>Many human rights treaty bodies, human rights mechanisms, special procedures, recommendations of the UN Human Rights Council, UN resolutions and reports have repeatedly confirmed that LGBTI people are entitled to all the same human rights as heterosexual, cisgender and endosex people and that discrimination on the basis of SOGIESC violates human rights law.</p>
<p>When our national legislation does not conform with human rights norms and standards, there is not much we can do about it.</p>	<p>Sometimes provisions of national laws and policies may conflict with fundamental rights enshrined in international law – whether it is in relation to the human rights of LGBTI persons or other groups or to specific human rights standards.</p> <p>All States have a duty to review and reform national legislation and policies in line with international human rights standards, including in relation to human rights treaty obligations. Parliament is responsible for lawmaking; therefore, it must ensure that national legislation conforms and harmonizes with international human rights obligations.</p>
<p>There are more serious problems for MPs to focus on than LGBTI human rights – like education, health and security.</p>	<p>This is a common tactic used to deflect attention away from and minimize or ignore State responsibilities to respect, protect and fulfil the rights of LGBTI people.</p> <p>The human rights of LGBTI people, like all people, require serious and dedicated attention. LGBTI people are often more likely than others to be denied equal access to education, health, employment and security. Protecting, respecting and fulfilling the rights of LGBTI people in no way prevents, obstructs or delays the resolution of any other matters.</p>

MYTH	REALITY
<p>Homosexuality and being transgender are mental illnesses or disorders that can be cured.</p>	<p>Neither homosexuality nor being transgender is a disorder or a disease (as affirmed by WHO). Everyone has a gender identity, including transgender people; the only difference is that theirs differs from the one assigned to them at birth. Homosexuality is a natural and non-pathological variation of human sexuality.</p> <p>WHO has also made clear that sexual orientation and gender identity cannot be changed. Attempts to forcibly change the sexual orientation of lesbian, gay and bisexual persons, or the gender identity of transgender people, such as “conversion therapies”, are ineffective and harmful, and constitute torture and inhumane treatment.</p> <p>In fact, LGBTI people are at an increased risk of mental ill health related to discrimination and violence. LGBTIphobia and discrimination are major barriers to access to health care and can result in increased risk of health concerns unrelated to sex, gender or sexuality.</p>
<p>Intersex is a medical condition that can be cured.</p>	<p>The WHO International Classification of Diseases 11 (ICD-11) includes disorders in sex development, a controversial term that implies that intersex people are unnatural bodies that need to be fixed.</p> <p>However, being intersex is not a health issue in itself. There are only a few cases where a surgical intervention must be carried out for vital reasons. Yet many intersex infants and children are subjected to unnecessary, unconsented, non-vital surgical and medical procedures that solely intend to make their body’s appearance conform to a binary vision of sex.</p> <p>In fact, “these often-irreversible procedures can cause permanent infertility, pain, incontinence, loss of sexual sensation, and lifelong mental suffering, including depression. Regularly performed without the full, free and informed consent of the person concerned, who is frequently too young to be part of the decision-making, these procedures may violate their rights to physical integrity, to be free from torture and ill-treatment, and to live free from harmful practices”.</p>

MYTH	REALITY
<p>Intersex people are rare and therefore policy or legislative interventions are not needed.</p>	<p>There are no commonly agreed statistics on the intersex population, but experts estimate that up to 1.7 percent of the population is born with intersex traits.</p> <p>The presumed small number of intersex people cannot justify States' inaction on the violence and discrimination they face. Everyone should live safely, free from harm, ill-treatment, torture and discrimination – intersex people too.</p>
<p>If we allow legal gender recognition based on self-determination (without treatment or surgery requirements), anyone will want to change their identity papers.</p>	<p>When transgender people transition (to live in the gender they identify with), they go through multiple steps. These may include coming out to family, friends, coworkers and employers, and dressing and expressing themselves according to their gender, which exposes them to violence and discrimination.</p> <p>Legal gender recognition based on self-identification protects transgender people against violations of their dignity and supports them in this process.</p> <p>Legal gender recognition based on self-identification also protects those intersex people who do not identify with the gender assigned to them at birth, and who may already struggle with the trauma of unconsented surgical and other medical interventions, from further violation of their dignity and enables self-determination.</p>
<p>If we add gender identity as a protected ground against discrimination, sex will no longer be equally protected.</p>	<p>It is important to firmly include gender identity as a ground for protection in legislation. A person can be discriminated against because of their registered sex; they might also be discriminated against because of their gender identity, especially when this is not aligned with their registered sex (as is frequently the case). Thus, transgender people are discriminated against because they are transgender. Adding the ground of gender identity to non-discrimination legislation provides specific protection to transgender people, who are still today one of the groups most discriminated against in our societies in all aspects of everyday life.</p>

MYTH	REALITY
<p>All LGBTI people have HIV/AIDS.</p>	<p>This is untrue. HIV can affect all people, regardless of sexual orientation and gender identity, including heterosexual men and women. Anyone who has unprotected sex, shares injecting equipment or has a transfusion with contaminated blood is at risk. Infants can be infected with HIV from their mothers during pregnancy, during labour or after delivery through breastfeeding.</p> <p>What <i>is</i> true, is that barriers to the enjoyment of human rights, specifically the stigma, discrimination, violence and social exclusion that LGBTI people often experience, can impact the extent to which they can access services and information for HIV prevention and treatment, which leaves them more vulnerable and at higher risk of exposure to HIV. This experience of vulnerability and marginalization must be addressed as key barriers to human rights that prevent LGBTI peoples' access to services.</p>
<p>Being around LGBTI people or having access to information on homosexuality endangers the well-being of children.</p>	<p>This is a myth. Learning about or spending time with people who are LGBTI does not influence the sexual orientation or gender identity of minors, nor does it harm their well-being.</p>
<p>Giving visibility to SOGIESC issues in education and/or sex education is encouraging children and adolescents to become LGBTI.</p>	<p>Inclusive education does not push children to be LGBTI, but, rather, gives them the tools to understand how diverse gender, sexuality and human bodies are, realize who they are and who they are not, and reduces the exposure to school bullying and violence at large by fostering a safe and supportive environment without shame.</p> <p>UNESCO has advocated for comprehensive sexual education (CSE) for more than 10 years. "A significant body of evidence shows that CSE enables children and young people to develop accurate and age-appropriate knowledge, attitudes and skills; positive values, including respect for human rights, gender equality and diversity, and attitudes and skills that contribute to safe, healthy, positive relationships."</p>

MYTH	REALITY
<p>A family is made of a husband, a wife and children. Other forms of families are unnatural and put children at risk.</p>	<p>There is a wealth of sociological and psychological research that shows that children raised in Rainbow families are not worse off than other children.</p> <p>Diverse families (e.g. beyond the heteronormative model of husband, wife and children) have always existed and continue to exist in many societies: children are raised by family members other than their parents – by broader communities, single parents, their siblings, etc. – these are everything but “unnatural”. Policies and laws should centre around the principle of the best interest of the child (Convention on the Rights of the Child) and the capacity of carers to raise healthy and happy children.</p>
<p>Gay, lesbian, bisexual, transgender and intersex people are paedophiles or “dangerous to children”.</p>	<p>There is no link whatsoever between being LGBTI and child abuse. Evidence shows that LGBTI people all over the world, just like heterosexual, cisgender and endosex people, are good parents, teachers and role models for young people.</p> <p>Portraying LGBTI people as paedophiles or dangerous to children is wrong and offensive. It is a distraction from the need for serious and appropriate measures to protect all children, including those coming to terms with their sexual orientation and gender identity. All forms of sexual abuse, including against children, should be prevented and punished wherever they occur and whoever is involved.</p>
<p>“Gender ideology” is what makes people transgender.</p>	<p>Gender ideology is a concept used by conservative movements to halt progress that has and is being made towards equality.</p> <p>“Speaking about sex as the only ‘objective reality’ is a way of saying that biology is what makes someone a woman or a man – otherwise known as ‘biological determinism’. Biological determinism has been historically used to suppress women. For example, it has been used to assert that ‘women’s place is in the home’ because of the biological fact that they are bearing children, or that violence towards women is inherent to a biological difference between men and women, and not a result of gendered power relations and the social construction of gender.”</p>

9. Holding decision makers to account: Ask the right questions

A key part of your oversight function is posing oral and written questions to ministers and other decision makers. **You can pose probing questions to illuminate their responsibility to ensure that laws are actually implemented and necessary actions are taken by responsible bodies.**

Use or adapt the following questions as appropriate in your own context. You might pose them as part of an ongoing legislative procedure or simply to spur a debate in parliament.



Photo: UNDP

9.1 Ask the government

- Does the Executive have a specific policy to address equality and non-discrimination based on sexual orientation, gender identity and gender expression? Is there an accountability framework and policy? If yes, are there reports on implementation? Do other ministries cooperate on LGBTI issues?
- Are there official statistics documenting acts of violence and discrimination against LGBTI people?
- What is the prevalence rate of violence and discrimination against LGBTI people?
- Has research been conducted to learn about factors that incite and cause violence against LGBTI people in this country? Is research conducted on the impact of such violence?
- What information is available on the specific types of violence perpetrated on LGBTI people?
- To what extent does the government comply with the recommendations of the national human rights institution (if there is one) for the prevention and investigation of acts of violence against LGBTI people, or those perceived as such? What about the Universal Periodic Review?
- Is LGBTI disaggregated data being collected and reported on, including as part of the Voluntary National Review process?

9.2 Ask the parliament

- How are LGBTI communities reflected and represented in parliament?
- What measures has the parliament taken to ensure that it is a safe place for LGBTI people to work?
- Has parliament developed a plan to implement the recommendations of the Global Commission on HIV and the Law, including undertaking law reform in relation to MSM and transgender people?

9.3 Ask the Ministry of Interior

- What is the procedure for legal gender recognition? What is required of a person who wishes to change their gender on their identity papers?
- What is the status of children in diverse family formations (such as Rainbow families)?
- How do you ensure their rights are respected?
- What are the obstacles to the official registration of the LGBTI community and CSOs?

9.4 Ask the Ministry of Health

- Do state health personnel receive compulsory training on non-discrimination? If yes, what kind of training is it?
- Does the Ministry ensure that all staff, not only medical professionals, but including receptionists, janitors, security officers and others, are adequately trained and sensitized on equality and non-discrimination? How?
- Are there training requirements for health care practitioners to understand the health needs and risks of LGBTI people? If yes, what are they?
- Are there monitoring and evaluation mechanisms to ensure that such training contributes to improving the provision of services to LGBTI people?
- Are there any health services specifically designed to address the needs of LGBTI people? If so, how accessible are these services?
- What is the prevalence rate of unconsented, non-emergency and irreversible surgeries and other medical interventions on intersex infants and children? Are such surgeries and interventions regulated?
- Are there any mechanisms for complaint, justice, redress or reparation when unconsented, non-emergency and irreversible surgeries and other medical interventions were performed on intersex people? How are they implemented and how often are they or have they been used?
- Is the Ministry, Minister and Executive taking action to prevent intersex genital mutilation (IGM)? Are you working with health care providers to prevent them?
- Is there a mechanism by which LGBTI people can evaluate the quality of health services and propose changes?
- Is there a national HIV strategy or plan, and, if so, does it include specific consideration of key populations?

9.5 Ask the Ministry of Justice

- Is there an integrated approach to addressing LGBTI people who are victims of violence, including protocols for police, prosecutors, health care providers and other social service agencies?
- Are there prompt, independent and effective investigations into all allegations of acts of violence, including those that may be motivated on the grounds of sexual orientation, gender identity or sex characteristics?
- Is the Ministry tracking murders and killings that may be motivated by homophobia, transphobia and/or interphobia?
- Do law enforcement officials receive training on non-discrimination and equality? If so, what kind?
- Is specific training available in places of detention?
- Does the Ministry ensure that law enforcement officers know the laws and are aware of human rights, particularly the human rights of LGBTI people, and how to apply these in their work? If yes, how?
- Does the Ministry work with CSOs to undertake comprehensive public awareness-raising and sensitivity campaigns on SOGIESC diversity? If so, how?

9.6 Ask the Ministry of Education

- Is there an anti-bullying initiative in schools to combat discrimination and violence against young people and children, including those who are LGBTI or are perceived as LGBTI? If so, how does this initiative work?
- If there is not a specific anti-bullying initiative, how is bullying in schools and communities being addressed, including bullying against those who are LGBTI or are perceived as LGBTI?
- Are the needs of transgender and gender-non-conforming children taken into account in school, e.g. are they allowed to wear clothes they prefer, are they called by their chosen name and pronouns, are they protected against bullying, are gender-neutral toilets available?
- Does the Ministry support student-led Safe at School campaigns?
- Do textbooks used in school include any reference to and/or reflect a positive approach to LGBTI issues?
- Does the Ministry work with LGBTI organizations to develop curriculum and human rights training for teachers, parents and children?
- Is there a plan for comprehensive sexuality education programmes in schools and communities? Has SOGIESC diversity been incorporated into the curricula to help transform stereotypes against LGBTI people?

9.7 Ask the Ministry of Social Welfare

- Is there a mandate for LGBTI awareness training for staff who work in child welfare and on juvenile justice issues?
- Is there an inclusive, non-discriminatory policy that explicitly commits to addressing the needs of LGBTI youth, such as mental and physical health issues, countering substance abuse, safe sexual practices and livelihood opportunities?
- Does the Ministry allocate funds to developmental, preventive and intervention programmes involving or led by LGBTI youth? If so, please provide details.
- Is there an estimate of the incidence and prevalence of homelessness among LGBTI youth? If not, do you plan to research the issue?
- Is there dedicated shelter space and housing for LGBTI youth?

9.8 Ask the immigration authorities

- Are there any immigration laws, policies or practices that restrict, target or disadvantage LGBTI people, whether residents, visitors or migrants?
- Does the Ministry ensure that the rights of same-sex couples and diverse family formations (including same-sex families) are protected when they enter the country and as they settle in? What action is taken to ensure this?

9.9 Ask the judiciary

- Have all members of the judiciary received training on human rights, including in relation to LGBTI people?
- Do all judges deal with hate crimes and violence and discrimination against LGBTI people?
- Is there a court culture of impartiality in court cases that concern LGBTI persons? If yes, how is it implemented and monitored?
- How are the human rights of LGBTI prisoners protected in jails and in all places of detention?
- What precedent and jurisprudence exist regarding LGBTI people?



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