



Parliamentarians for Global Action
Parlamentarios para la Acción Global
Action Mondiale des Parlementaires
برلمانيون من أجل التحرك العالمي



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.

ADVANCING THE HUMAN RIGHTS AND INCLUSION OF LGBTI PEOPLE

A HANDBOOK FOR PARLIAMENTARIANS

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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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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.¹²

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.¹³ 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.

¹² OHCHR, [Human Rights Law](#).

¹³ 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.¹⁴ 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].”¹⁵ 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.¹⁶

The Human Rights Council adopted its first resolution on human rights, sexual orientation and gender identity in 2011.¹⁷ 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

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.

¹⁴ CCPR/C/50/D/488/1992.

¹⁵ General comment No. 16 (1988), para. 1.

¹⁶ 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.

¹⁷ A/HRC/RES/17/19, 17 June 2011.

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.¹⁸

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

¹⁸ OHCHR, [What do treaty bodies do?](#)

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 Committees¹⁹ 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 Committees²⁰ 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.²¹
- **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 2018.²²

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 2017.²³

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.²⁴ 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.

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 procedures²⁵ 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*.

¹⁹ CESCR, CAT, CEDAW, CRPD, CED and CRC when the relevant optional protocol enters into force.

²⁰ CCPR, CERD, CAT, CEDAW, CRPD and CED.

²¹ Provided that the State has recognized the competence of the Committee to receive such complaints and that domestic remedies have been exhausted.

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

²³ Diana Carolina Prado Mosquera, [UPR SOGIESC UPR Advocacy Toolkit](#) (ILGA World, 2017).

²⁴ A/HRC/38/25.

²⁵ 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 SDGs²⁶ 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”.²⁷ 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.

²⁶ A/RES/70/1.

²⁷ 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.²⁸

Not all governments consult their parliaments when preparing for a VNR, although it is good practice to do so²⁹. 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.³⁰

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.³¹

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.³²

²⁸ OHCHR, [Voluntary National Reviews](#).

²⁹ 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).

³⁰ 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.

³¹ 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).

³² 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 people³³ 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”).³⁴ The Human Rights Council renewed the Independent Expert’s mandate in 2019.

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;³⁵
- 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;³⁶
- 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;³⁷
- Publication of an information paper on protection against SOGIESC discrimination by the International Labour Organization (ILO).³⁸

³⁵ OHCHR, [Standards of Conduct for Business on Tackling Discrimination against LGBTI people](#), 2017.

³⁶ UNHCR and IOM, [2021 SOGIESC and Migration Training Package](#).

³⁷ UNICEF, [Eliminating discrimination against children and parents based on sexual orientation and/or gender identity](#), 2014.

³⁸ ILO, [Information paper on protection against sexual orientation, gender identity and expression and sexual characteristics \(SOGIESC\) discrimination](#), 2019.

³³ Ibid.
³⁴ Resolution 32/2, June 2016.

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.³⁹

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 2017.⁴⁰

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”.⁴¹ 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

Original Yogyakarta Principles (2006)⁴²

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.



³⁹ See for example, OHCHR, [The struggle of trans and gender-diverse persons](#).

⁴⁰ [The Yogyakarta Principles](#).

⁴¹ [Experts Release Much Anticipated Expansion of the Yogyakarta Principles](#), 27 November 2017.

⁴² 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.⁴³

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.

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.

⁴³ 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.⁴⁴ 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

⁴⁴ 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.

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

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 \(2019-2024\)](#).

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:⁵⁵

- 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

⁵⁵ IACHR, [Advisory Opinion 24/2017 on gender identity, and equality and non-discrimination of same-sex couples](#), 2017.

In a report published in 2018,⁵⁶ 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:⁵⁷

- 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

⁵⁶ IACHR, [Advances and Challenges towards the Recognition of the Rights of LGBTI Persons in the Americas](#), 2018.

⁵⁷ 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?		
Does your country provide equal access to health care, in law? In practice, do LGBTI people have equal access to health care?		
Does your country provide access and financial coverage for		
- Trans-affirmative health care?		
- IVF?		
- Artificial insemination?		
Does your country provide equal access to justice, in law? In practice, do LGBTI people have equal access to justice?		
Does your country provide equal access to housing, in law? In practice, do LGBTI people have equal access to housing?		
Does your country provide equal access to education, in law? In practice, do LGBTI people have equal access to education?		
Does your country provide equal access to work, in law? In practice, do LGBTI people have equal access to work?		
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?		

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.⁹⁶

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.⁹⁷

⁹⁶ UNESCO, *Why Comprehensive sexuality education is important*, 2018.

⁹⁷ 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.⁹⁸

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.⁹⁹

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.¹⁰⁰

⁹⁸ UN Women, *Concepts and Definitions*.

⁹⁹ Inter-Agency Standing Committee (IASC), *Guidelines for Integrating Gender-Based Violence Interventions in Humanitarian Action*, 2015.

¹⁰⁰ 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.¹⁰¹

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.¹⁰²

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.¹⁰³

¹⁰¹ Adapted from Psychological Society of South Africa, *Practice Guidelines for Psychology Professionals Working with Sexually and Gender-Diverse People*, 17 April 2018.

¹⁰² UN Free and Equal, *Fact Sheet: Intersex*.

¹⁰³ 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.¹⁰⁴ 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.¹⁰⁵

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).

¹⁰⁴ A/75/836.

¹⁰⁵ 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.¹⁰⁶

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”.

¹⁰⁶ University of Northern Iowa, Gender & Sexuality Services, [Pronouns](#).



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.”¹⁰⁷



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.



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.¹⁰⁸ 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.”¹⁰⁹

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.

¹⁰⁷ Talia Meer, *All the (Tricky) Words: A Glossary of Terms on Sex, Gender and Violence* (Cape Town, GHJRU, University of Cape Town, 2014).

¹⁰⁸ ILGA-Europe, *Glossary beginning with s*.

¹⁰⁹ 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.¹¹⁰

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.



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.¹¹¹

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.

¹¹⁰ Introduction to the Yogyakarta Principles.

¹¹¹ ILGA-Europe, *Glossary beginning with T*.



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