



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



PART III

EFFECTIVE ACTION

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

ADVANCING THE HUMAN RIGHTS AND INCLUSION OF LGBTI PEOPLE

A HANDBOOK FOR PARLIAMENTARIANS

ACKNOWLEDGEMENTS

This Handbook is co-published by the **United Nations Development Programme (UNDP)** and **Parliamentarians for Global Action (PGA)**.

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.

The original version of this Handbook was co-authored by Suki Beavers, Francisco Berreta and Boyan Konstantinov. A substantial redraft, incorporating updates and significant new contributions – including from those acknowledged below – was undertaken by Juliette Sanchez-Lambert and Charles Chauvel and with the support and expertise of Francesca Alice and Anna Kirey.

Parliamentarians who contributed to this edition include Senator Boris Dittrich (the Netherlands), Zita Gurmai MP (Hungary), Hon. Ruth Labode (Zimbabwe), Maja Morachanin MP (North Macedonia), Hon. Fox Odoi-Oywelowo (Uganda), Hon. Naveed Qamar (Pakistan) and Hon. Ts'epang Ts'ita-Mosena (Lesotho).

Mónica Adame, Lee Badgett, Miguel Chambel, Farai Chirongoma, Fernando Damazio, Danilo da Silva, Mandeep Dhaliwal, Dan Christian Ghattas, Biljana Ginova, Micah Grzywnowicz, Bithika Hasan, Melanie Judge, Boyan Konstantinov, Sarah Lister, Jennifer McCarthy, Jeffrey O'Malley, Alhelí Partida, Loé Petit, Simon Petitjean, Elena Petrovska, Kenita Placide, Diego Postigo, Marta Ramos, Alejandro Roche, Lluís Juan Rodríguez, Jenny Rouse, Eliana Rubashkyn, Karin Santi, Monica Tabengwa, Philip Tijsma, Tashi Tsheten, Christian Tshimbalanga, Agata Walczak and Alan Wardle also made important contributions to the text.

Proposed citation:

UNDP November, 2022 / PGA February, (2022). "Advancing the Human Rights and Inclusion of LGBTI People" A Handbook for Parliamentarians

The views expressed in this publication are those of the authors and do not necessarily represent those of the United Nations, including UNDP, or UN Member States; nor those of PGA or its member parliamentarians.

UNDP partners with people at all levels of society to help build nations that can withstand crisis, and drive and sustain the kind of growth that improves the quality of life for everyone. On the ground in more than 170 countries and territories, we offer global perspective and local insight to help empower lives and build resilient nations.

Parliamentarians for Global Action (PGA) is an international, cross-party, non-governmental network of parliamentarians that informs and mobilizes legislators to advocate for human rights and the rule of law, democracy, human security, non-discrimination and gender equality.

Copyright © UNDP 2022

United Nations Development Programme
One United Nations Plaza
New York, NY, 10017 USA <http://www.undp.org/>

Parliamentarians for Global Action
132 Nassau Street, suite 1419
New York, NY 10038 USA <http://www.pgaction.org/>

Editor: **Jenny Rouse**. Designer: **Anna Shinderovsky**

CONTENTS

Part III: Effective Action	01
5. Entry points for advancing LGBTI human rights: Mainstreaming inclusion	02
5.1 Gender mainstreaming and inclusive representation	02
5.1.1 Working within parliaments	03
5.2 Protection against discrimination	04
5.3 Protection against violence	05
5.3.1 Sexual and gender-based violence	05
5.4 Family and protection of children	06
5.5 HIV	06
5.6 Gender inclusive peace and security	07
6. Lessons learned from progressive actions around the world	08
7. Stepping up in your own country	27
7.1 Use your multiple roles: representation, legislation, oversight	28
7.1.1 In your representation role	28
7.1.2 In your role as a lawmaker	31
7.1.3 In your oversight role	34
7.2 Work within parliament and with political parties	35
7.2.1 Within and across parliament	35
7.2.2 Within your political party or group	36
7.3 Be a leader in your community	37
7.4 Internal party actions: party manifestos and support for LGBTI candidates	38
7.4.1 Political party manifestos	38
7.4.2 Openly LGBTI candidates and their non-LGBTI allies	39
7.5 Parliamentarians for Global Action: Empowering parliamentarians to foster LGBTI inclusion	40
.....	
Glossary	41



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

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

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

5.1 Gender mainstreaming and inclusive representation

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

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

the process of assessing the implications for women and men of any planned action, including legislation, policies or programmes, in all areas and at all levels. It is a strategy for making women’s as well as men’s concerns and experiences an integral dimension of the design, implementation, monitoring and evaluation of policies and programmes in all political, economic and societal spheres so that women and men benefit equally and inequality is not perpetuated. The ultimate goal is to achieve gender equality.⁵⁸

This operational definition of gender mainstreaming for the UN has tended to focus on one category of individuals: women, and within a binary construct (“women and men”). It has not generally included people who identify beyond the gender/sex binary or belong to other groups that are discriminated against on the basis of race, ethnicity, disability, sexual orientation, class, faith, etc. There are encouraging signs of change to this position. One example is Women, Peace and Security (WPS), a political and policy agenda underpinned by a series of UN Security Council Resolutions, which marks a shift in global understanding of gender and security, supported by the Secretary-General’s call for data on peacekeeping and security to be disaggregated by sexual orientation and gender identity⁵⁹ (see section 5.6). Gender mainstreaming remains a powerful tool by which to mainstream the needs of LGBTI people in legislation and policies.

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

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

⁵⁸ A/52/3, Chapter IV, [Generic Mandates \(ECOSOC 1997/2\)](#).

⁵⁹ S/2019/800.

5.1.1 Working within parliaments

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

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

Ensure SOGIESC are mainstreamed in:

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

Across your parliamentary work:

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

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



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

5.2 Protection against discrimination

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

It is possible to adopt anti-discrimination law even while criminalization of same-sex activity persists. A recent example is the Barbados Employment (Prevention of Discrimination) Act 2020,⁶⁰ which prohibits discrimination based on sexual orientation, even though the country still criminalizes same-sex activity through its Sexual Offences Act (ch. 154, s. 9).

⁶⁰ [Employment \(Prevention of Discrimination\) Act, Barbados, 2020](#).

5.3 Protection against violence

5.3.1 Sexual and gender-based violence

In 2011, OHCHR submitted a report to the Human Rights Council that recognized that homophobic and transphobic violence is a form of gender-based violence, “driven by a desire to punish those seen as defying gender norms”, and can be physical (including murder, beating, kidnapping, rape and sexual assault) or psychological (including threats, coercion and arbitrary deprivation of liberty). It also highlighted that it tends to be “especially vicious compared to other bias-motivated crimes”.⁶¹

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

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

Violence and discrimination from state actors

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

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

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

5.4 Family and protection of children

LGBTI children, their families and children in diverse families suffer from a number of issues and violations of their human rights.⁶² For example:

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

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

All children, irrespective of their actual or perceived sexual orientation or gender identity, have the right to a safe and healthy childhood that is free from discrimination. The same principle applies to all children irrespective of their parents’ sexual orientation or gender identity.⁶³

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

5.5 HIV

HIV prevention has often been the best-known entry point for advancing LGBTI human rights. It has also been very effective in environments hostile to LGBTI rights and inclusion, where direct activism may be particularly difficult and dangerous. Most policy and programmatic responses to LGBTI health inequalities have been catalysed by HIV,⁶⁴ with MSM and trans women often part of the broader grouping of “key populations”, i.e. groups of people who are at higher risk of HIV infection, and whose engagement is critical to a successful HIV response.

⁶² UNICEF, [Eliminating discrimination against children and parents based on sexual orientation and/or gender identity](#), *Current Issues*, No. 9, November 2014.

⁶³ *Ibid.*

⁶⁴ Jeffrey O’Malley and Andreas Holzinger, *Sexual and gender minorities and the Sustainable Development Goals* (UNDP, 2018).

⁶¹ A/HRC/19/41.

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

5.6 Gender-inclusive peace and security

Around the world, LGBTI people face bias, discrimination and even violence from state actors whose role is to maintain the rule of law, justice and security.⁶⁵ Abuse by law enforcement and security actors is often overlooked.

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

Twenty years since the adoption of the landmark Resolution 1325,⁶⁶ there is growing recognition that not only sex but also sexual orientation and gender identity add layers of vulnerability for those people living in any peacemaking and development context. In conflict and crisis situations, exploitation and humiliation of LGBTI people is common and happens at the hands of both conflict actors and civilians. It is perpetuated by the culture of impunity around such abuse and exacerbated by the fact that LGBTI people often lack family or community ties and economic security.

The UN Security Council itself has been reluctant to address this issue, as it embodies a human rights perspective. Despite this, there has been a demonstrable, albeit slow, shift at both the international and national levels in recent years. In his 2019 WPS Report, the UN Secretary-General called on UN peace operations “to continue to improve their monitoring and reporting of threats and violence against activists ... with data disaggregated by, among others, sexual orientation and gender identity”.⁶⁷

Several countries now recognize the specific security needs of LGBTI people in their WPS national action plans.⁶⁸ LGBTI organizations are now part of the NGO Working Group on WPS, while more inclusive alliances of women's and LGBTI CSOs form a stronger voice calling for agency and protection of people who are discriminated against because of their SOGIESC.

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

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

⁶⁵For example, in Poland, a study showed more than 57 percent of LGBTI people distrust the policy, and only 4 percent of those who experienced homophobic violence reported it. Campaign Against Homophobia, [Situation of LGBTI Persons in Poland](#), 2015-16 report.

⁶⁶S/RES/1325.

⁶⁷S/2019/800.

⁶⁸Argentina, Albania, Japan, Sweden, Switzerland, the UK and the US.

6. LESSONS LEARNED

from progressive actions around the world

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

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

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



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

– Hon. Fox Odoi-Oywelowo, Uganda



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

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

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

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

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

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

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

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

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



Credit: UNDP

- In the **Pacific region**, momentum for law reform for Sexual Orientation, Gender Identity and Expressions and Sex Characteristics with all intersectionalities (SOGIESC+) rights is less advanced than the women’s movement but has been growing over the last decade with some strong and active Pacific SOGIESC+ NGOs working at different levels. In Fiji, there is a large and diverse group of PIDSOGIESC+ NGOs who work across a range of SOGIESC+ rights issues, including law reform. Activists in Tonga and Samoa also have a long history of locally contextualized advocacy around these issues. The Pacific Sexual and Gender Diversity Network (PSGDN) has emerged in recent years as a regional focal point for PIDSOGIESC+ advocacy across the region. Its strategic plan (2020–24) prioritizes law reform as one of its three main pillars of work. PSGDN has 14 national members, including members in each of the nine Commonwealth Pacific countries, who provide good entry points for national engagement. It is important to note that considerable progress has been made in recent years largely due to advocacy from Pacific civil society.⁶⁹

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

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

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

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

⁶⁹ Charmaine Rodrigues, *A Fairer Future: Law Reform and Advocacy Opportunities for Women’s and PIDSOGIESC+ Rights in the Commonwealth Pacific* (Royal Commonwealth Society, 2019). See in particular Part 5, which provides a summary of law reform entry points, and Annex 1, which provides a detailed analysis of the key legal issues facing the Commonwealth Pacific around gender equality, women’s and PIDSOGIESC+ rights.

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

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

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

- In the **DRC**, a key advocacy tool in the successful campaign to prevent the introduction of an anti-homosexuality bill, the *Argumentaire Technique Contre la Criminalisation de Certaines Populations Clés*, elaborates on relevant international and regional legal texts. The DRC being a monist state,⁷⁰ international law principles constitute strong counter arguments to criminalization.
- In **Angola**, CSOs advocating alongside MPs for decriminalization and further human rights protections to be enshrined in a new Penal Code engaged with UN treaty bodies (notably CEDAW) and the UPR process, which resulted in specific recommendations to the Government. Despite the new Code limiting certain grounds for protection, decriminalization of same-sex sexual conduct and legislative protections against discrimination based on sexual orientation were praised during the country’s UPR process in 2020.⁷¹
- In **Bhutan**, the negative international perception of the country created by its continuing to criminalize MSM conduct was a critical factor in securing high-level support for the decriminalization measure. In introducing the bill, His Excellency Lyonpo Namgay Tshering stated that, “This section ... has become so redundant and has never been enforced. It is also an eyesore for international human rights bodies.” Under mounting international pressure, decriminalization in 2020 allowed Bhutan to report that it had complied with the recommendations of the UPR.
- In **Pakistan**, adoption of the Transgender Persons (Protection of Rights) Act 2018 sent a clear message to society that human rights and inclusion matter. It also signalled to trans people that many elected representatives welcomed interaction with them, stood up for them and prioritized their legal right to protection and social inclusion. Passage of the Act has strengthened interaction between MPs and the LGBTI community, broadening the scope of understanding of LGBTI human rights and input to parliamentary work.

⁷⁰ The current Constitution of the DRC stipulates in article 215 that international treaties and agreements regularly concluded have, from the moment of their publication, an authority superior to that of laws, subject to the application of each treaty or agreement by the other party.

⁷¹ A/HRC/43/11.

Lesson 3. Leadership matters

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

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

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

Hence, spearheading reform efforts with anti-discrimination measures for LGB peoples is likely to gain greater public understanding, generate better debate and, ultimately, be better supported than anti-discrimination measures to address the human rights of minority LGBTI groups. Sometimes this can allow law reform to embrace the totality of LGBTI groups because the public debate does not go much beyond the LGB focus.⁷² The risk, however, is that public acceptance and understanding for minority-interest measures will take longer. Furthermore, textual problems can arise if legislative provisions do not undergo focused scrutiny prior to enactment.

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

⁷² When this is so, however, it is important not to gloss over details or inadequacies in law reform proposals, or to contribute to further rendering members of particular groups invisible.

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

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

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



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

As the New Zealand example has shown, **some changes to laws and policies to improve LGBTI inclusion may not be as controversial as many might predict.** Although there are important geographical exceptions, the global trend is that social attitudes – especially among younger people – are changing rapidly in favour of inclusion.⁷³

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



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

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

Lesson 4. Coalition-building is vital.

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

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

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

⁷³ Jacob Poushter and Nicholas O. Kent, [The global divide on homosexuality persists](#), 25 June 2020.

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

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

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

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

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

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

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

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



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

- In **North Macedonia**, the power of cross-party groups is evident, particularly when they work in tandem with CSOs. An inter-party parliamentary group on LGBTI human rights “[uses] the available mechanisms of the Assembly of the Republic of Macedonia in order to build a society in which sexual orientation and gender identity will not constitute an obstacle to the full enjoyment of human rights and freedoms”.⁷⁴ The group has been highly effective in helping to forge political will as part of building a favourable climate for progress on LGBTI rights and societal inclusion. Its 15 members represent views across the political spectrum. Not every MP in the group is able to declare their support for LGBTI issues publicly, yet they are members and the constraints on them are accepted by the group. The group works closely with LGBTI CSOs, who provide expert input to legislative proposals, and engages with the media to build a public climate for reform.

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

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

- In **the Netherlands**, the “Pink ballot agreement” introduced in 2012 by the national association COC Nederland, is a mutual agreement signed by political parties to address key LGBTI issues identified by civil society,⁷⁵ which helped secure visible commitment and support from political parties during election time.
- In **Pakistan**, the Transgender Persons (Protection of Rights) Bill was introduced in the upper chamber by the majority party and adopted there. In the lower chamber, it was proposed by the opposition party, with little chance of passing into law. The bill’s sponsor, Hon. Syed Naveed Qamar, worked across party lines to garner support. The bill was introduced on the last sitting day of the National Assembly in 2009, reducing the opportunity for opposition and amendment, and was rapidly passed into law with support from all political parties.
- In **Argentina**, two cross-party working groups – the Political Parties Working Group and the Parliamentary Working Group in Favour of the Equal Marriage and the Gender Identity Laws – were instrumental in securing support from across the political spectrum, including the Executive, and the adoption of both laws.

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

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

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

— Antonio Niquice MP, Mozambique

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

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

⁷⁴ [The Inter-Party Parliamentary Group for Improvement of the Rights of LGBTI People was Constituted.](#)

⁷⁵ COC Netherlands, “[Lessons Learned. The Pink Ballot Agreement](#)”.

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

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

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

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

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

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

- In May 2014, the **African Commission on Human and Peoples' Rights** adopted Resolution 275 on Protection against Violence and other Human Rights Violations against Persons on the basis of their real or imputed Sexual Orientation or Gender Identity (see section 3.1), which strongly urges member States to end all acts of violence and abuse by enacting and effectively applying appropriate laws prohibiting and punishing all forms of violence, and other measures. It is especially significant that the Commission has been addressing the issue of discrimination against LGBTI people, including in its concluding observations and recommendations to African Charter member countries. It has explicitly included sexual orientation and gender identity in its soft law instruments, which are influential throughout most of Africa in raising important issues and helping countries set their own agendas for human rights protections for LGBTI people.
- The **South African Development Community Parliamentary Forum** (SADC PF) has published three "Model Laws" that member parliaments have been invited to adopt, or "domesticate", including one on HIV/AIDS in Southern Africa (2008).⁷⁶ Six of its 15 Member States have decriminalized consensual same-sex activity (South Africa in 1994, Lesotho in 2012, Mozambique in 2015, Seychelles in 2016, Botswana in 2019 and Angola in 2021). It was never criminalized in Madagascar. The remaining eight continue to criminalize consensual same-sex activity but, in most of these jurisdictions, there is ongoing debate on decriminalization. **The Model Law on HIV/AIDS in Southern Africa is frequently cited in such debates and on the extension of anti-discrimination legislation to LGBTI people.**
- The new Penal Code of **Angola**, which decriminalized MSM activity and includes protections of rights based on sexual orientation, decriminalization of abortion and the introduction of aggravated sentences for corruption and discrimination in health care, created a blueprint for further efforts in the region to not only decriminalize consensual same-sex conduct but also develop positive provisions to address discrimination and violence, and to encourage further open dialogues about LGBTI rights.

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

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

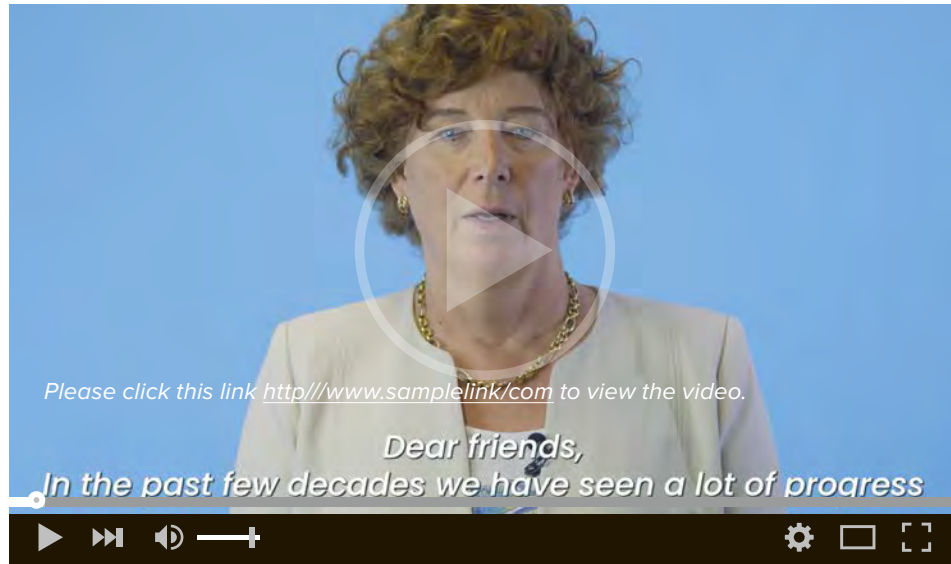
- In the **European Parliament**, the LGBTI Intergroup invoked supranational parliamentary and judicial authority to rebut regressive state-sponsored LGBTIphobia in Poland (see Lesson 4).
- In **Uganda**, **a regressive and punitive piece of legislation targeting MSM was scuttled through the concerted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

⁷⁶ The Model Law on HIV/AIDS in Southern Africa guarantees respect for human rights principles, rejects coercive approaches, addresses the root causes of vulnerability to infection, and ensures the protection of members of vulnerable and marginalized groups. It provides for a non-limitative enumeration of vulnerable and marginalized groups, including children, women and girls, sex workers, injecting drug users, refugees, immigrants, prisoners, internally displaced persons, indigenous and mobile populations, MSM, lesbians, transgender people and bisexual people. It also calls for the decriminalization of commercial sex work and consensual sexual relationships between adult persons of the same sex as specific measures to enhance HIV prevention.

7. Stepping up in your own country

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

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



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

7.1 Use your multiple roles: representation, legislation, oversight

7.1.1 In your representation role

You can:

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

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

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

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



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

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

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

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

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



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

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

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

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

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

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

7.1.2 In your role as a lawmaker



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

You can promote legislative measures to ensure:

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

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

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



- Protection of individuals from homophobic, biphobic, transphobic and interphobic violence through:
 - adopting laws that protect all individuals from violence, including those targeted on the grounds of their real or perceived SOGIESC;
 - adopting or reforming legislation to protect against all forms of hate speech and discrimination, including that based on SOGIESC and disseminated online;
 - strengthening legislation to incorporate mechanisms for monitoring and reporting anti-LGBTI violence, asylum and police protection;
 - adopting legislation that prohibits harmful practices, such as so-called “conversion therapy” and intersex genital mutilation (IGM);
 - supporting gender-affirming procedures for legal gender recognition and appropriate health care for transgender people;
- The ending of impunity for acts of violence, whether committed by state or non-state actors, through laws that appropriately prohibit and punish all forms of violence and discrimination, including the targeting of persons based on their perceived or real SOGIESC;
- The promulgation of adequate regulations that ensure proper investigation and diligent prosecution of perpetrators of human rights violations and establish judicial procedures that protect victims;
- A review of domestic legislation regarding non-discrimination with the objective to harmonize it with existing regional and international obligations, and ensure the inclusion of SOGIESC as protected grounds from discrimination;
- Support from the Executive to ratify international human rights treaties, and implement and harmonize these treaties in domestic law (see section 2.2);
- The establishment of national human rights institutions that include SOGIESC within their mandate, and/or specific institutions with expertise on and a mandate to deal with LGBTI human rights and inclusion;
- Mainstreaming LGBTI issues by advocating to include LGBTI people in all legislative projects that may have an impact on LGBTI people’s lives, in line with the SDGs, e.g. by including non-discrimination on the basis of SOGIESC in non-discrimination law reform, alongside other characteristics such as race, ethnicity, gender, disability, etc.;
- The adoption of an intersectional perspective⁷⁷ in all legislative activities to ensure inclusive representation of the community;
- Building wider support from broad-based coalitions by looking for avenues for intersectional legislation.

⁷⁷Intersectionality is a very important concept in LGBTI advocacy work (see section 1.1).



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

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

7.1.3 In your oversight role

You can work to:

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

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

7.2 Work within parliament and with political parties

7.2.1 Within and across parliament

- Work to achieve a cross-party agreement, such as the “Pink ballot agreement” introduced in the Netherlands in 2012, whereby political parties sign a mutual agreement to address key LGBTI issues identified by civil society.⁷⁸ This helped secure visible commitment and support from political parties during election time.
- Use your profile as a public representative to create spaces for open conversations about SOGIESC issues, or facilitate those that may already exist.
- Ask that library and research facilities within parliament share publicly available knowledge and tools on SOGIESC issues, as the basis for informed, evidence-based dialogues that can displace statements based on prejudice and stereotypes.
- Promote parliament-led dialogue and partnerships that encourage inclusive, respectful and evidence-based discussions and debates.
- Challenge other MPs who advocate for discriminatory and exclusionary actions, policies and legislation, and take concrete steps to counter these actions.
- Address and oppose hate speech at the individual and collective levels, including through partnerships.
- Promote dialogue and tolerance, including sensitization campaigns among fellow MPs, to address discrimination and exclusion on the basis of SOGIESC.
- Support and respect LGBTI MPs, who are often present in parliament in very small numbers and may themselves experience discrimination, stigma and harassment, whether they are speaking openly about their SOGIESC or not.
- Build alliances in support of LGBTI MPs, engage in and model respectful dialogue and discussion, including respect for privacy, and promote collegiality in advancing LGBTI issues.

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

7.2.2 Within your political party or group

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

⁷⁸ COC Netherlands, [Lessons Learned. The Pink Ballot Agreement.](#)

Good practice: cross-party caucuses on LGBTI human rights

North Macedonia: Inter-party group on LGBTI rights
European Parliament: LGBTI Intergroup
Poland: Polish Intergroup on LGBT+ rights
United States: Congressional LGBTQ+ Equality Caucus
United Kingdom: All Party Parliamentary Group (APPG) on Global LGBT+ Rights
New Zealand: Parliamentary Rainbow Network



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

7.3 Be a leader in your community

You can build alliances across civil society:

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

The importance of engaging with civil society

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

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

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

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

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

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

7.4.1 Political party manifestos

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

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

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

- In **India**, Congress MP Sushmita Dev was the first MP to consult the LGBTI community when drafting a political manifesto;⁷⁹
- In **Scotland**, several parties have included LGBTI human rights in their election manifestos over the past decade, publicly committing to undertake legal and policy action to foster LGBTI inclusion;⁸⁰

⁷⁹ [DNA, Queer community finds voice in party manifesto](#), 22 January 2019.

⁸⁰ [Stonewall, Scottish parliament election: What the manifestoes say on LGBTI equality](#), 23 April 2021.

- In **Peru**, three of the 23 political parties included concrete proposals for LGBTI inclusion in their manifestos during the 2021 presidential elections.⁸¹

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

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

7.4.2 Openly LGBTI candidates and their non-LGBTI allies

Political parties may choose to support LGBTI candidates at the local, national or regional level.

When LGBTI people run for elections, they are not only the subject of political, legislative and policy debate and action: they become actors of change.

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

It will not always be safe for people who are openly LGBTI to run for elections in all contexts.⁸² Even when candidates do stand, they are more likely to face public outcry and abuse than their counterparts. LGBTI candidates' safety must be paramount, both within and outside political parties, to ensure they can develop their potential and contribute to debate.

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

The Victory Institute: Training LGBTI people to run for elections and hold public office
The Victory Institute supports LGBTI candidates running for election in and outside the United States by providing leadership development, training and networking opportunities. It supports MPs and CSOs in the Balkans, Colombia, the Dominican Republic, Honduras, India, Peru and South Africa.⁸³

The "Rainbow quota": Obliging political parties to have LGBTI candidates in Mexico
In the 2021 legislative elections in Mexico, more than 100 LGBTI people ran as candidates, the largest number in Mexico's history.⁸⁴ This followed an order from the State Electoral Tribunal demanding political parties and coalitions include quotas of LGBTI people in their lists as part of their affirmative action efforts.⁸⁵ Among those elected were two trans women, Salma Luévano and Maria Clemente Garcia, who now sit in Mexico's Parliament.

⁸¹ [La República, Elections 2021: 12 government plans do not mention the LGBTIQ+ population](#), 25 January 2021.

⁸² [NBS News, Tunisia has its first openly gay candidate for President](#), 14 August 2019; [Hugo Greenhalgh, Prominent Tunisian LGBT+ activist flees death threats](#), Reuters, 10 January 2020.

⁸³ [Victory Institute, International Leadership Program](#).

⁸⁴ [NPR, More than 100 LGBTQ candidates are competing in Mexico's election](#), 3 June 2021.

⁸⁵ [Milenio, Parties must include LGBT people in nominations](#), 15 February 2021.



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

– Salma Luévano, openly trans MP, Mexico

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

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

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

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



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.*



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



UN
DP