Advancing the Human Rights and Inclusion of LGBTI People: A Handbook for Parliamentarians

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The Situation of LGBTI People

- Ongoing stigma, discrimination, and violence around the world
  - Homophobia and transphobia
  - Punitive laws
  - Ineffective legal protection

- Parliamentarians have a critical role to play in advancing the rights and inclusion of LGBTI people
International Human Rights Framework

- Legal obligations of States
- Treaty bodies, UPR
- No new rights

- Yogyakarta Principles
  - Apply IHR standards to LGBTI-relevant issues
  - Identify States’ duties and obligations to LGBTI people
Int’l Human Rights Framework (cont’d):
Regional Mechanisms

**Africa**
- African Commission on Human and Peoples’ Rights
  - **Resolution 275**
    Explicitly recognizes the human rights of LGBT persons and calls for their protection

**Americas**
- Organization of American States
  - Six resolutions
- Inter-American Commission on Human Rights
  - **Action Plan** to address discrimination and violence against LGBTI people
  - **Rapporteurship** on the rights of LGBTI people

**Europe**
- Council of Europe
  - **Recommendation CM/Rec (2010)5**
    Calls upon Member States to take positive steps to protect the rights of the LGBTI community
- European Union
  - **Prohibits discrimination** on the basis of sexual orientation
  - **Fundamental Rights Agency** monitors rights of LGBTI people

Pictured:
Representatives from the African Commission, IACHR and UN, participating in a joint thematic dialogue on sexual orientation and gender identity
Sustainable Development Goals (SDGs)

- Agenda 2030
  - Leaving no one behind
  - Role of parliaments

- UNDP led LGBTI Inclusion Index
  - Bridging data gaps
  - 5 priority dimensions
  - Existing and new data
Practical Tools for MPs to use to advance rights & inclusion of LGBTI people

- Learn how to speak about LGBTI issues, address myths & offer realities about LGBTI people
- Complete a rapid assessment of your laws & policies relevant to rights of LGBTI people
- Sample questions provided that can be posed in parliament, to ministers and other decision-makers
How MPs Can Get Engaged

As legislators

As representatives

In oversight role
Advancing Rights as an MP: Legal Reform

Constitutional protections: Nepal

- New constitution includes protective provisions for sexual and gender minorities:
  - Explicit protection from discrimination
- Full recognition as people before the law
- Freedom to choose gender identity on citizenship document

Repealing and blocking discriminatory laws: Mozambique

- Colonial-era laws criminalized homosexuality
- New Penal Code passed in 2015 decriminalized homosexuality
- Successfully challenged cultural notions about homosexuality being “un-African”
Prioritizing Protections for Intersex People

• Advancing the rights of intersex people requires additional attention and support:
  ○ only two countries currently provide legislation aimed at protecting their rights

• **Malta**
  ○ Gender Identity, Gender Expression and Sex Characteristics Act:
    ▶ prohibits “normalizing” genital surgeries
    ▶ introduces a fast gender recognition procedure based on self-determination
    ▶ allows postponement of gender markers on birth certificate
    ▶ other provisions in the area of health and non-discrimination

• **Chile**
  ○ Circular Order N18: "On certain aspects of health care of intersex children"
    ▶ Stops “unnecessary treatments for ‘normalization’ of intersex children … until they are old enough to decide on their bodies."
  ○ Proposal to add prohibition against discrimination based on “sex characteristics” to draft anti-discrimination law on Rights of the Child

• **Australia**
  ○ first parliamentary inquiry anywhere into human rights & intersex health
  ○ Senate-led inquiry and joint cross party report & recommendations on involuntary or coerced sterilisation of intersex people and persons with disabilities
Prioritizing Protections for Transgender People

- Advancing the rights of transgender people also requires additional attention and support
- Few countries legally recognize the gender identity of transgender people

**Viet Nam**

- UNDP facilitated discussions between National Assembly members and LGBTI community representatives on the human impact of legislation which denied rights to transgender people

**Successful outcome:**
The Civil Code now protects the right of people who have undergone sex-reassignment surgery to have their gender recognized
Advancing Rights as an MP: Sectoral Approach

Policy consultations with the transgender community: 
*Maharashtra State, India*

- 2013 **public consultation** with thousands of transgender people, the Chief Minister and other government representatives
- **Transgender people** and **sex workers** included in the deliberations and review of proposed Women's Policy

**Successful outcomes:**
- Welfare Board for the transgender community established
- Cultural institute (in process) dedicated to transgender community
- Maharashtra Woman’s Policy finalized & approved by the state cabinet

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*Civic engagement and political party manifestos: Scotland*

- Time for Inclusive Education (TIE) Campaign sought **curriculum change**, to make LGBTI education a statutory right in Scottish schools
- Switched strategies & with public support, TIE turned to **political parties**
- Leading party **manifestos** now include TIE’s LGBTI teacher training proposal
MPs taking concrete steps would drive global legal, policy & social norm change

- Use the media
- Develop context specific strategies
- Sustain efforts over time
- Work with & learn from LGBTI organization
- Support broad based civil society coalitions
- Share experiences, lessons learned with other MPs
- Become a champion of rights & inclusion of LGBTI
- Inspire other MPs

UNDP & PGA Handbook & support available